



## **MINUTES**

### **SELECT BOARD**

**03/02/2021**

Present: Select Board Member Bernard W. Greene, Select Board Member Nancy S. Heller, Select Board member Heather Hamilton, Select Board Member Raul Fernandez, Select Board Member John VanScoyoc

6:00 pm: a recorded meeting via remote participation using the Zoom platform

#### ANNOUNCEMENTS/UPDATES

Chair Greene spoke on the movie MLK vs. the FBI that showcases the horrible things the FBI did to undermine Martin Luther King. This film is available on Amazon, and he recommends people view it. Board member Heller updated that Board that the Centre Street committee related to the Hebrew Senior Life (HSL) proposed project has been dismantled. HSL is rethinking their project at this time. Board member VanScoyoc recognized Brookline Patch newspaper reporter Jenna Fisher's story on Brookline Rabi Dani Esco wh's grandparents are holocaust survivors and his efforts to get holocaust survivors vaccinated against Covid. 14 residents showed up. Vice Chair Hamilton announced that the Commission for Women is now accepting nominations for Women of the year; this year they are looking at multiple recipients.

#### PUBLIC COMMENT

1. Janice Kahn, TMM and AC chair of the Public Safety Subcommittee spoke on the Newton Police reform task force looking at shifting from a police warrior mentality to a guardian. This concepts stems from President Obama's 21st Century Policing Reform Task Force. The report noted right at the beginning that a guardian mindset helps to build public trust. In Brookline over the past 20 years our community has asked the police department to take on more and more responsibilities which has led to partnering with many agencies, both within and outside of Brookline and as a result, the department is now woven into the fabric of the social safety net of the town. My concern is that if we choose to pull the department out of their supportive helping roles, our community will be left with the uniformed officers solely engaged in the enforcement of regulations and laws, setting the stage for only negative police community interaction.
2. Jonathan Mande served on policing reform committee. May 25, 2020 watch killing of George Floyd., and as a member of the committee and witnessed the Chair mock the choke hold ban. He spoke on Chair Greene's actions within the committee which he feels were disrespectful of other members and instructed other members to place certain items to the back of the report. The credibility of the reform committee is flawed, and he will not be voting of Chair Greene's reappointment as Select Board member.

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3. Ade Ijanusi spoke on the reform committee and feels something is not right with the makeup of the committee. The people of color in that committee are having a problem with a recommendations and the way they were being treated by the team.

4. Deborah BrownTMM1 spoke on the expenditure of \$70k for a consultant, attorney Natasha Tidwell, to review the Town's approach to litigation involving Gerald Alston and has nothing to show for it. (Comments on Police reform inserted in that agenda item) She feels that the reform committee never recovered from the choke hold incident that Jonathan spoke about.

5. Board member VanScoyoc responded that week after week people show up with no respect for the ground rules on public comment. I don't know what we can do about it. If we try to do anything about it, we will get accused of trying to suppress critics or suppress speech, but I think one of the fundamentals of simple courtesy should apply, and people should not use our public comment period to smear individuals, can we contain comments that attack others and exercise restraint and respect for others.

6. Board member Heller noted that she has seen more disrespect and incivility in our politics than ever before and feels that it is related to the former president. She hopes the new administration will change that.

### MISCELLANEOUS

Question of approving the meeting minutes from February 16 and February 23, 2021.

On motion it was,

Voted to approve the minutes of February 16 and February 23, 2021.

Aye: Bernard Greene, Nancy Heller, Heather Hamilton, Raul Fernandez, John VanScoyoc

### DONATIONS

Question of accepting the following donations for the Fire Department:

\$500.00 from the Korean Church of Boston

\$100.00 from Brookline resident, Ms. Judith R. Sebestyen

On motion it was,

Voted to accept the following donations for the Fire Department:

\$500.00 from the Korean Church of Boston

\$100.00 from Brookline resident, Ms. Judith R. Sebestyen

Aye: Bernard Greene, Nancy Heller, Heather Hamilton, Raul Fernandez, John VanScoyoc

### CONTRACT

Question of approving the contract with CTA Construction Managers, LLC, for the Third Floor and Tappan Gym Renovation for the Brookline High School expansion project in the amount of \$7,821,340.

On motion it was,



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Voted to approve the contract with CTA Construction Managers, LLC, for the Third Floor and Tappan Gym Renovation for the Brookline High School expansion project in the amount of \$7,821,340.

Aye: Bernard Greene, Nancy Heller, Heather Hamilton, Raul Fernandez, John VanScoyoc

### AUTHORIZATION TO HIRE

Question of approving the authorization to hire request for a Senior Maintenance Craftsperson/Carpenter (T209) in the Public Buildings Division of the Building Department.

On motion it was,

Voted to approve the authorization to hire request for a Senior Maintenance Craftsperson/Carpenter (T209) in the Public Buildings Division of the Building Department.

Aye: Bernard Greene, Nancy Heller, Heather Hamilton, Raul Fernandez, John VanScoyoc

### CALENDAR

#### COVID-19 UPDATE

Update on the status of COVID-19 in Brookline

Town Administrator Mel Kleckner reviewed the Governor's announcement on changes to the State's reopening plan to increase capacity limits. On March 22<sup>nd</sup> the Governor is recommending entering the final phase of the state's reopening plan. This will include concerts, weddings, and other various events.

Dr. Jett, Director of Health and Human Services, provided the weekly update on the Covid19 virus:

- Supply continues to be a challenge. Brookline does not expect to administer the vaccine until the final phases.
- Brookline's testing site will begin to be dismantled due to funding. The lower the number of tests administered, the higher the cost. The testing numbers are going down
- 997 vaccines have been administered to date in Brookline.
- He provided a brief update on staffing due to retirements and new hires
- A plan to vaccinate home bound seniors is being considered, the challenge is there are no vaccines available for that at this time.
- Dr. Jett thinks we are in the beginning of a surge
- Dr. Jett submitted a letter to the Governor on vaccinating teachers, no response has been received yet

### FIRE CHIEF EMPLOYMENT CONTRACT

Question of reappointing the Fire Chief, John Sullivan, and renewing the employment agreement.

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Town Administrator Kleckner acknowledged the outstanding performance and contributions that Chief Sullivan has demonstrated, especially during this Covid pandemic. He gave a brief overview of the contract that includes a stipend related to his role as Emergency Management Director.

The Board spoke in favor of the contract and offered their accolades.

On motion it was,

MOVED: That the Select Board reappoints John F. Sullivan as Fire Chief for a three year period commencing on March 26, 2021 and approves the renewal of his Employment Agreement in the document attached; TOWN OF BROOKLINE, MASSACHUSETTS FIRE CHIEF EMPLOYMENT CONTRACT (3/26/2021 – 3/25/2024).

Aye: Bernard Greene, Nancy Heller, Heather Hamilton, Raul Fernandez, John VanScoyoc

### FY22 DEPARTMENTAL BUDGET REVIEW

Review of the FY22 Departmental Budgets for the Fire Department and Town Clerk Department.

Fire Department:

Chief Sullivan began his presentation.

The overall budget reflects an increase of \$17k related to software updates; records management, a slight increase in utilities, and a salary increase to reflect the new position of Emergency Management Coordinator which half the year's salary was covered by a grant.

Some accomplishments:

- Quickly developed and implemented health and safety protocol related to Covid
- PPE acquisitions, training and dispersal developed exposure policies.
- Facilities and disinfection protocols. Temporary housing at the library and school helped to cut down exposures to the department.
- Emergency management center still up and running
- Developed and implemented C-19 exposure, injury , quarantine, testing and vaccination programs
- Objectives review
- Objective Covid support review
- Capital: Station renovations require debt exclusion, and we are evaluating the numbers due to changes. We will be bringing that forward to the capital subcommittee. Hopefully there will be debt exclusion for this in the near future. We understand now is not the time to be competing for taxpayers money

Board member Fernandez asked if there could be a clear and precise policy related to various Town Officials and administrators during an emergency crisis.

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Chief Sullivan responded that there are policy people and operations people, and he understands that emergency events can get a little convoluted. We were so busy trying to hit each crisis every day and a pandemic is different because there is a lot dictated to us. We will work on doing a better job of classifying those roles going forward. Board member Fernandez added that he is proud of the emergency response and their ability to respond immediately with limited information.

### Town Clerk Department

Acting Town Clerk Jeff Nutting reviewed that this past year there were three election cycles. The budget reflects a decrease of \$143k due to fewer upcoming elections. Staffing levels remain the same, and they will continue to access part time help for elections and census duties. They are planning a regular election process this year providing full access to the polls. There will be a safe and efficient environment. Mr. Nutting added that due to technology advances, they have the ability to keep staffing levels low.

#### Highlights:

- Advanced software
- Working on Boards and Commissions software with the Select Board's office
- Capital: request for updated voting machines
- Request for historic documents restoration; many historic important documents were revealed and need to be preserved.

The Board noted the long absence of long term Town Clerk Pat Ward, and the need for succession planning. Mr. Nutting supports an appointed Town Clerk; this allows the hiring a highly qualified candidate with experiences vs. someone that wants to be a Town Clerk.

The Board thanked Mr. Nutting for all his help during these difficult times.

### FOSSIL FUEL FREE LETTER OF SUPPORT

Question of endorsing the Net Zero Stretch Code Letter of Support to Governor Baker.

This item was withdrawn it has been completed

### COMMITTEE ON POLICING REFORMS AND TASK FORCE TO REIMAGINE POLICING PRESENTATIONS

Bernard Greene, Chair of the Committee on Policing Reforms, and Raul Fernandez, Chair of the Task Force to Reimagine Policing in Brookline, will present their respective groups' final reports.

Bernard Greene began saying that the presumption of the police reforms committee is that the Brookline police department is a very good department in all areas of current concerns with policing nationally. As I've always said it's not perfect. We have a lot of issues that we need to resolve, but I urge the community and this board to not undermine the very, very, very good, because it's not perfect, or because of the sins of other police departments.

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Chair Greene provided the following presentation:

## **SELECT BOARD COMMITTEE ON POLICING REFORMS**

### **Presentation to the Brookline Select Board March 2, 2021**

#### **An Assemblage of Exceptional Experts**

##### **COMMITTEE MEMBERS**

Bernard Greene, Chair  
June Binney\*  
Elizabeth Childs  
Raj Dhanda  
Casey Hatchett  
Jonathan Mande\*\*  
Martin Rosenthal  
Robert Sable  
Dwain Tyndal  
Ronald Wilkinson  
Paul Yee  
Sassan Zekha  
Michael Zorob

\* Stepped down as voting member of  
Committee.

\*\* Stepped down as active member of  
Committee

##### **NON VOTING EXPERT CONSULTANTS AND STAFF SUPPORT**

June Binney  
Ann Hess Braga  
Michael Downey  
Devon Fields  
Janice Kahn  
Michael Keaveney  
Melvin Kleckner  
Annabel Lane  
Chris Malinn  
Daniel C. O'Leary  
Jennifer Paster  
Felina Silver Robinson  
Richard Sheola  
Caitlin Starr

## Road Map

"Breaking News"

Accomplishments of the Committee

General Recommended Improvements to the Town and BPD

Universal Recommendations to the Select Board

Subcommittee Recommendations to the Select Board

## Subcommittees

Accountability, chaired by Michael Zoorob, PhD candidate in Government at Harvard working on the politics of crime and policing

Civil Rights, Militarization, and Mass Events, chaired by former District Court Judge Paul Yee

Community Outreach, Youth, and Non-Traditional Roles, chaired by Sgt. Casey Hatchett who among other roles was the data analyst for the BPD

Mental Health and Substance Use Disorders, chaired by Elizabeth Childs, former Commissioner of Mental Health for the Commonwealth.

Personnel and Governance, chaired by Elizabeth Childs, former Commissioner of Mental Health for the Commonwealth.

## Breaking News

The Policing Reforms Committee in the past week worked with the Police Department and the Brookline police union to survey employees of the Police Department about their thoughts and experiences, as well as their suggestions for reforming the Department. There were 87 respondents to the survey, representing about a 50% response rate. We are still working to digest all of the rich information, including many thoughtful responses to open-ended questions that suggest many ways to improve the Brookline Police Department. Some highlights are as follows:

- Police employees thought that residents had a lukewarm opinion of them. 45% of respondents reported that residents of the Town viewed them favorably, while 31% thought residents viewed them unfavorably. The remainder of respondents were unsure or thought residents were neutral.
- More troublingly, Department employees generally did not feel that the leadership of the Town viewed them well. Just 10% of employees thought the Town's leadership viewed them favorably or very favorably, while 67% of employees thought the Town's leadership viewed them unfavorably or very unfavorably.

### Breaking News (Continuation)

- Morale in the Department is low. 87% of respondents said morale in the Department was poor, while just 3% said morale was good or excellent. 81% thought levels of compensation were poor, while about 5% thought compensation was good or excellent. 85% of employees have seriously considered leaving the Department and several responses to open ended questions suggest that many employees are actively looking to leave the Department.

While many results from the survey are concerning, they are not all negative. For example, 97% of respondents agreed or strongly agreed that they worked well with their peers in the Department. Officers and employees also provided many helpful suggestions for improving the policing.

Stay tuned for additional information after further analysis

### Accomplishments of the Committee

Action	Rough Estimate of Cost: Financial or Other (excluding supplies and general overhead)
Chokehold ban	none
Technical fix to make citizen complaints as easily accessible as citizen commendations on the BPD website	none
Implemented customer satisfaction survey (Survey Monkey)	\$900 additional annual fee in first year for upgraded license paid from Committee funds appropriated by Town Meeting in first year; subsequent years will require Town appropriation - the upgraded Survey Monkey can be used for other Town purposes
Established multi-agency task force on homelessness; consisting of expanded roundtable of agencies that are working on homelessness issues; engage social service agencies in addition to BPD in addressing this issue	None; the task force is a working group of existing agencies to bring more resources to addressing homelessness issues and utilize non-police resources where appropriate

### General Recommended Improvements to the Town and BPD

Recommendation	Rough Estimate of Cost: Financial or Other (excluding supplies and general overhead)
Consider including Department of Public Health and Human Services as part of public safety; initially by including it under public safety in budget	Minimal cost of changing documents and webpages
Have webpages and other Town documents consistently use title "The Department of Public Health and Human Resources"	None
That BPD work to implement recommendations of the Civil Rights, Militarization, and Mass Events Subcommittee on entering traffic citation data into reports	TBD; depends on availability of software to automate the data capture and the timing of the state's rollout of its electronic citation initiative; costs associated with any upgrade would result in additional staff hours

## General Recommended Improvements (Continuation)

That the Department of Public Health and Human Services investigate contracting with providers of clinical services to be used by the BPD for mental health or substance use crises that can receive Medicaid reimbursements where such clinical services paid by BPD could not be reimbursed	Any costs should be reimbursed
That the BPD and the Department of Public Health and Human Services identify safe health training opportunities to train officers and dispatchers to assess whether BPD or other mental health expertise is most appropriate disposition of a case presented in a call	TBD
That the Department of Health and Human Services participate in a Suffolk or Norfolk County Restoration Career Implementation team if organized	None

## General Recommended Improvements (Continuation)

That BPD work to implement recommendations of the Civil Rights, Militarization, and Mass Events Subcommittee on information gathering by dispatch, supervisor monitoring, and BPD training of officers to respond properly to suspicious activity or suspicious person calls that may entail racial profiling by civilian callers.	None
That the BPD develop tracking system to account for all search warrants obtained from court	This is probably an excel spreadsheet task; will require minimal additional staff time
That the BPD develop a system to track the times and incident types when providing assistance to another police agency when there is no formal agreement pursuant to Gen.L. c.41, §99	This is probably an excel spreadsheet task; will require minimal additional staff time - if not already being done

## General Recommended Improvements (Continued) ...

That the BPD consider additional officer wellness initiatives and make improvements in existing programs; including considerations of stress on officers families	TBD
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## Universal Recommendations to the Select Board

Recommendation	Rough Estimate of Cost: Financial or Other (excluding supplies and general overhead)
SB to establish Police Commissioners Advisory Committee (see summary below)	Minimal staff support Miscellaneous costs to be decided by SB
Create a Liaison position in the Diversity Office that would be available to assist complainants in filing complaints with the BPD	Full time person who would have other responsibilities as proposed by the Reform Committee and as previously proposed by Town Meeting
Town administrator should cost out budget items in Committee's recommendations and determine whether they can be included in FY22 or FY 23 budgets	None

### Summary:

### Police Commissioners Advisory Committee

Central to the proposals of the Policing Reform Committee is the Police Commissioners Advisory Committee (PCAC). The Accountability Subcommittee recognized that the civilian Select Board has significant powers as Police Commissioners under state law -- including the power to implement police policies, to hire, suspend, demote, fire for just cause police employees, and hold disciplinary hearings with subpoena power. However, the Select Board is constrained by myriad issues vying for its attention and limited resources. The PCAC would assist Select Board members in providing an effective additional layer of civilian oversight of the Brookline Police Department (BPD) and to serve as ombudspersons and public advocates on policing issues.

The Select Board will appoint the five voting members of the PCAC who must be residents with lived and professional expertise in policing and related issues. Members must be committed to assisting the Select Board and the BPD to ensure fair and equitable policing in Brookline and, in so doing, promote public trust and confidence in policing.

The voting members must demonstrate an ability to make critical, independent, and fair judgments on the policies and practices of the BPD. Voting members shall neither be a current employee of the Town nor an immediate family member of a current BPD employee. Membership is expected to have racial and economic diversity, including the perspectives of communities that have suffered from inequitable treatment by policing in America.

### Summary

### Police Commissioner Advisory Committee (continuation)

There will also be five non-voting members. Four non-voting members shall be Town staff representing, respectively, the Office of Diversity, Inclusion, and Community Relations, the Human Resources Department, Town Counsel, and the Police Department. There shall also be a non-voting member designated by the Brookline Police Union. The Diversity Office shall coordinate Town staff assisting the Committee.

Responsibilities include (but are not limited by) the following:

- Reviewing the Police Manual on an ongoing basis and developing and advocating for equitable policing policies for the Select Board to implement.
- Advising the Select Board on priorities for upcoming bargaining with the Brookline Police Union that relate to fair and equitable policing.
- Reviewing internal investigations of civilian complaints for patterns indicative of policy issues; correcting deficiencies in internal investigations; helping complainants appeal to the Select Board as necessary; and advising the Select Board of the need for external investigations into complaints.
- Holding regular public hearings to review BPD annual reports and receive input from the public.

The Committee's responsibilities are described in detail in the proposed Charge. Further explanation for the proposed PCAC can be found in the Explanation section of the Charge.



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### PCAC Tasks

Recommendations	Rough Estimate of Cost: Financial or Other (excluding supplies and general overhead)
Determining extent and cause of racial and other disparities in vehicle stops using a reliable benchmark and improved data from BPD	See recommendations of Civil Rights, Militarization, and Mass Events Subcommittee
Reviewing police manual as part of ongoing accreditation work to give additional guidance on reducing disparities in vehicle stops, field interrogations, and arrests.	None; part of ongoing accreditation work of BPD and task of PCAC
Working with the BPD to implement new policies and procedures as required by the Police Reform Law.	

### PCAC Tasks (continuation)

Working with the BPD to implement the recommendations in the report of the Civil Rights, Militarization, and Mass Events Subcommittee	None
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### Subcommittee Recommendations to the Select Board

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## Accountability

Recommendation	Rough Estimate of Cost: Financial or Other (excluding supplies and general overhead)
That the SB establish PCAC (see Universal Recommendations)	Minimal staff support Miscellaneous costs to be decided by SB
That the SB request that the Town Administrator estimate the cost and a source of funding for the hiring in the Diversity Office of a Diversity Liaison to perform various responsibilities related to the work of the PCAC and other work of the Diversity Office that have been assigned by various Town Meeting and present his budget recommendation to the SB for approval	Full time staff
That the SB not agree to or authorize a police union contract provision that would limit the ability of the Town to impose discipline on officers for misconduct or that would impose onerous and non-transparent procedures before discipline can be imposed.	None

### Accountability (Continuation)

That the SB Approve continuation of Subcommittee's work to complete Civilian Complaint Policy revision	None
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## Civil Rights, Militarization, Mass Events

Recommendation	Rough Estimate of Cost: Financial or Other (excluding supplies and general overhead)
That the SB support the BPD's goal of automating the entry of data from citations issued for moving violations so that the BPD can easily and efficiently provide vehicle stop data to internal data analysts for policing purposes and to the PCAC for monitoring and measuring disparities	TBD; depends on availability of software to automate the data capture and the timing of the state's rollout of its electronic citation initiative; costs associated with any upgrade would determine additional staff hours needed
That the SB request that the Town Administrator estimate the cost and a source of funding for the hiring of additional analytical staff in the BPD to focus on traffic analysis and present his budget recommendation when the Town's budget permits	1 full time staff; but possibly part time

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### Civil Rights, Militarization, and Mass Events (continued)

That the SB recommend that the Town Administrator estimate the cost and a source of funding in the appropriate fiscal year to obtain an accurate benchmark study to enable the PCAC and BPD to identify disparities in vehicle stops	"Windshield" study could cost upwards of \$40,000 to get reliable benchmark against which to compare vehicle stops (possibly FY23 budget due to COVID; or alternative of a less costly accident data study if there are sufficient number of accidents in Brookline to measure)
That the SB request that the BPD working with Town Counsel draft a policy for SB issuance that would require any outside law enforcement officer to conspicuously display at all time a clearly identifiable badge, patch, or department name on the outermost part of any clothing, uniform, or gear/equipment to enable any person to ascertain the identity of the officer	None

### Community Outreach, Youth, and Non-Traditional Roles

Recommendation	Rough Estimate of Cost: Financial or Other (excluding supplies and general overhead)
That the SB request that the Town Administrator estimate the cost and a source of funding for a new staff position in the Public Health and Human Services Department to coordinate homeless issues and perform the tasks outlined in the Subcommittee report	FT or PT staff person
That the SB affirm the value and support the continuation of the School Resource Officer program in the schools, as modified by the actions proposed in the Subcommittee report	None
That the SB affirm the value and support the continuation of the Walk and Talk program at BHA, as modified by the actions proposed in the Subcommittee report	None

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## Community Outreach, Youth, and Non-Traditional Roles (Cont)...

That the SB authorize the Town Administrator to terminate payments made by BHA to the BPD for Walk and Talk services in the BHA	\$15,000 to be absorbed by the Town
That the SB assent to the continuation of the Subcommittee's work to complete work on data collection, focus group/survey at Teen Center, and other tasks	½ time of Diversity Office staff for approximately 4 to 6 weeks
That the SB assent to the continuation of the Subcommittee's work to to oversee and give guidance to homelessness task force and the staff person in the Department of Public Health and Human Services	None

## Mental Health &amp; Substance Use Disorder

Recommendation	Rough Estimate of Cost: Financial or Other (excluding supplies and general overhead)
That the SB request that the Town Administrator estimate the cost and a source of funds for the training of all new BPD officers in CIT and new dispatchers in mental health first aid	TBD: cost would accrue once any grant funding was no longer available
That the SB request that the Town Administrator estimate the cost and a source of funds for two social workers for the BPD and present to the SB a budget recommendation for approval	2 full time social workers; the cost of one social worker would accrue once any grant funding for the existing social worker ended
That the SB reach out to the Town's State Representatives and Senator to advocate for legislation that requires private insurers to pay for emergency services for mental health evaluations and legislation that supports expansion of walk-in urgent mental health services	None

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### Mental Health and Substance Use Disorders (Continuation)

That the SB request that the appropriate Town staff establish a mental health and substance use disorder working group of Town Staff and outside experts (the "MHSU Working Group") to be tasked with identifying and negotiating with a local health provider for 24/7 mental health and substance abuse "walk-in" crisis beds appropriate in size for Brookline's needs, consistent with the Commonwealth's Roadmap for Behavioral Health Reform.	TBD; could be partially or wholly funded through medicaid or other funding, including seeking public-private partnership to cover costs
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### Mental Health and Substance Use Disorders (Continuation)

That the MHSU Working Group also explore options with local private providers to house wrap-around outpatient services, such as Programs for Assertive Community Treatment (PACT), Community Support Programs (CSP), and Intensive Outpatient Programs (IOP) for individuals suffering chronic mental illness and substance use disorders in our community.	None
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## Personnel and Governance

Recommendation	Rough Estimate of Cost: Financial or Other (excluding supplies and general overhead)
That the Town Administrator (i) weigh the the pros and cons of leaving Civil Service as identified by the Subcommittee, (ii) begin discussions with police and fire unions to identify and acknowledge their legitimate concerns and issues, (iii) obtain the assent of the Select Board, (iv) prepare to begin the process of leaving Civil Service with the understanding that the completion of the report of the Commission on Civil Service may govern legislature's willingness to act or the Town's desire to act, (v) develop a clear plan to simultaneously address retention of officers, (vi) have a "Plan B" option of seeking home rule powers to change the preferences for hiring and promotions or other applicable powers if leaving Civil Service becomes more difficult or less desirable	None

## Personnel and Governance (Continuation)

That the SB acknowledge need to bring stability to BPD in a timely manner before hiring a new chief; consider suggestions of the Subcommittee regarding acknowledging that the interim chief will likely serve long enough that the BPD could begin backfilling positions at superintendent, deputy superintendent, lieutenant, and sergeant levels or take other steps to give stability to BPD	Cost of salaries and benefits of filling positions now unfilled but budgeted
That the SB address financial and other impediments to retention of officers, including the costs to officers' of seeking promotions.	TBD --This will require investment in the BPD to adjust base pay scales and "Quinn" stipends to be competitive with neighboring communities. Retention is a high value return on investment in training and recruitment, as well as a necessity of high quality performance in knowledge and continuity with community members and community resources.

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### Personnel and Governance (Continuation)

That the BPD prepare an amendment to its Policy Manual that requires that BPD officers swear an oath to the Constitution of the United States for approval and issuance by the SB	None

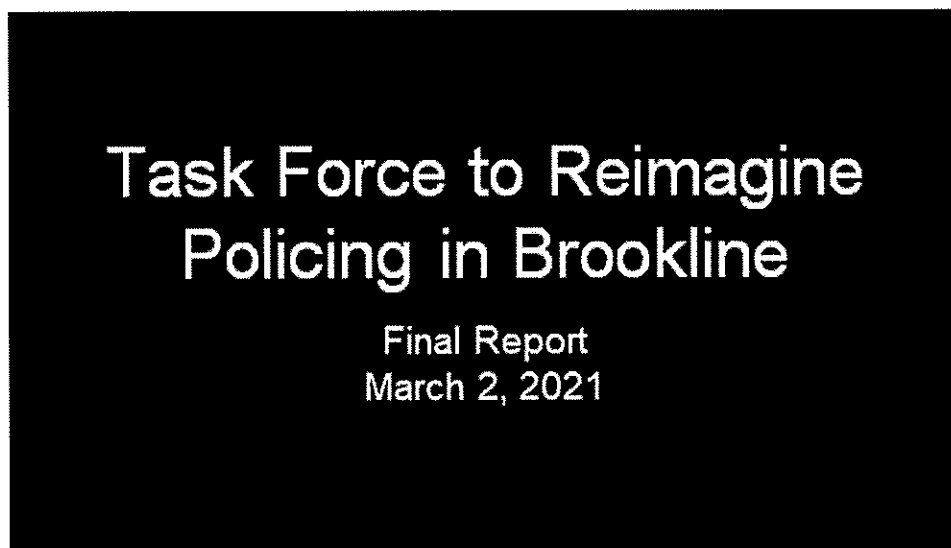
Q&A: The subcommittee chairs are available

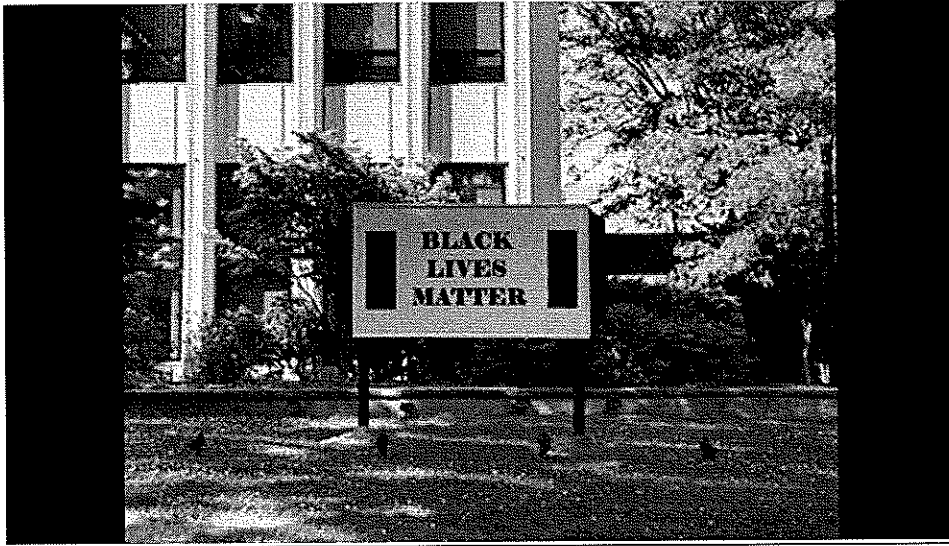
Vice Chair Hamilton asked about the survey, was there a random sample selected, how was that conducted?

Chair Greene: We had the assistance of the police union and the assistant to the police chief and every single employee of the police department was given the survey and police union encouraged our members to fill them out. Non-sworn employees were also encouraged to fill them out. At this time there were 95 responses, a significant response.

Board member Heller noted the tremendous amount of work, and the array of ideas, suggestions and recommendations. She requests a hard copy to review both reports.

#### TASK FORCE TO REIMAGINE POLICING





Board member Fernandez: It's important to first recognize why our task forces here in the first place, and, this moment has been a long time coming. It's because of commitments made by our select board when we voted to put up this black lives matter banner lesson last June.

"This banner is intended to affirm our conviction that Black lives matter and to proclaim our support for the aims of the movement to end police misconduct, to radically reform law enforcement organizations and the criminal justice system, and take steps to end racism and other forms of oppression."

- Bernard Greene, Select Board Chair

Source: Brookline Patch, June 9, 2020





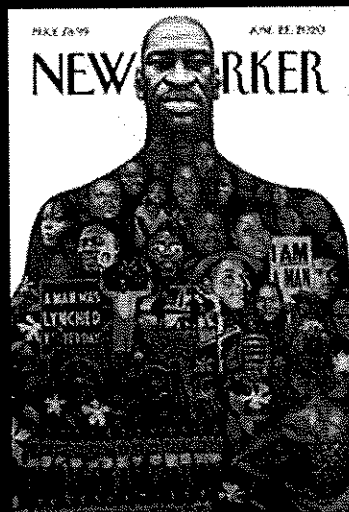
## THE INVENTION OF THE POLICE

*Why did American policing get so big so fast? The answer, mostly, is slavery.*

By ILLIAPOLICE  
APRIL 2020



From the days of the slave patrols until today policing has been used to exert control over people of color immigrants and poor people.



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The bottom line is that police reform has failed communities of color, time and again with reform efforts alone showing only marginal impact at best.



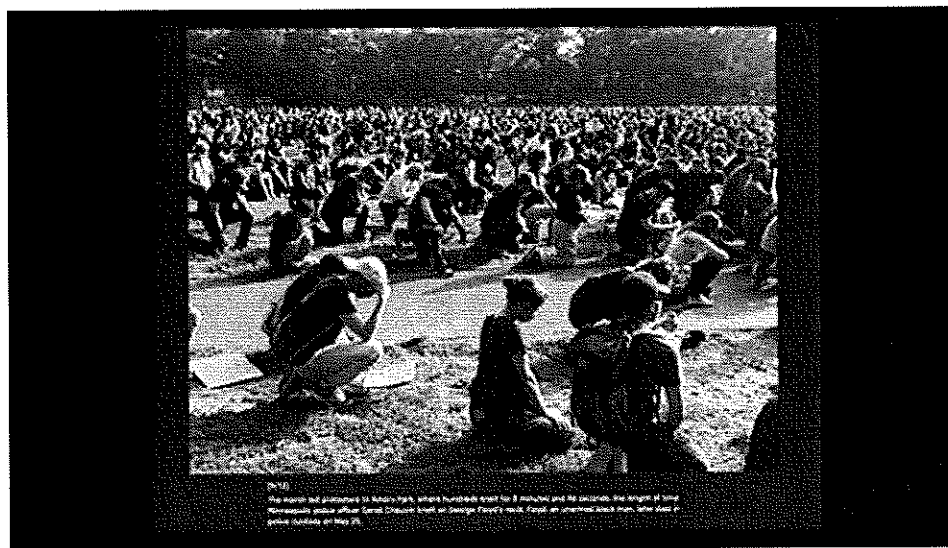
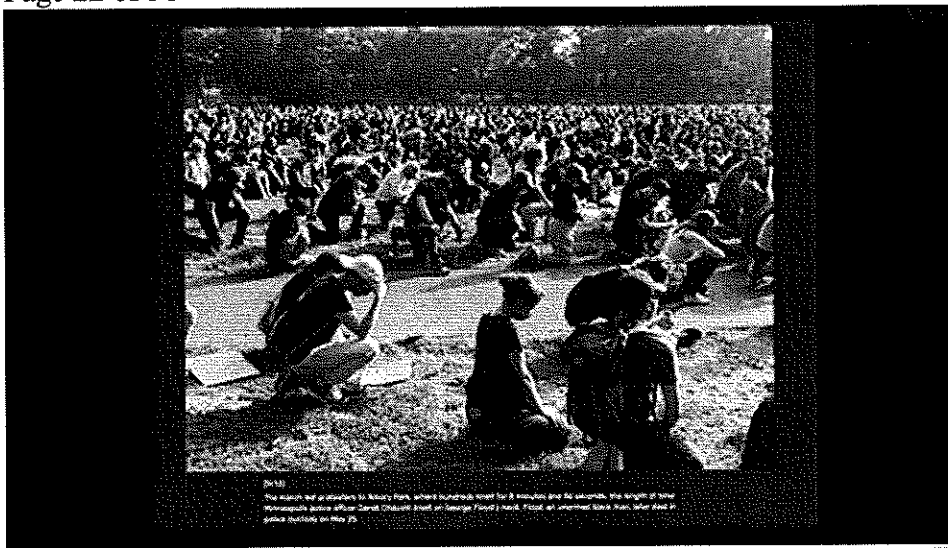
We understand that there are many people in this community who have only had good experiences with the Brooklyn police department. But as one insightful commentary said at one of our public hearings, your good experience does not cancel out someone else's bad experience.



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These voices cry out to us still demanding that we take actions that match the scope of the problem, and that is that we present durable meaningful solutions. And that's exactly what we will be presenting tonight.

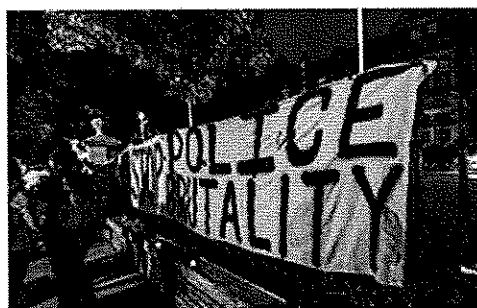


36-100  
Protesters held signs promoting the Black Lives Matter movement and calling on community members to stand up against racism.

**We need a task force to reimagine policing in Brookline, and everywhere.**

Brookline, Jun 1 2020 11:00 AM

0 0 0



## Tenets

A community holds the power to determine its own approach to community safety, which includes determining if and how police should be part of that approach.

There are members of our community and those in our neighboring communities for which Brookline's current model is simply not working. That is unacceptable.

Police need to be held to the highest standards and we need clear accountability measures for what happens when officers fail to live up to those standards.

This moment is an opportunity to rethink our relationship with police, yes, but also to reconsider how we invest in the long-term wellbeing of residents and neighbors.

## Task Force Charge

The Task Force to Reimagine Policing in Brookline will explore and recommend new approaches to public safety and policing in Brookline.

The Task Force will utilize a data-informed approach to interrogate our current model and provide a distinctly alternative approach to public safety.

## Task Force Members

**Raul Fernandez** (chair) is a Brookline Select Board member and associate dean for equity, diversity & inclusion at BU's Wheelock College of Education & Human Development.

**Bonnie Bastien** is a Town Meeting Member, an artist, a volunteer with the Massachusetts Bail Fund, a organizer for Mutual Aid Brookline, a member of Brookline for Racial Justice & Equity and Brookline Budget Justice.

**Malcolm Cawthorne** is the METCO coordinator at Brookline High School and a member of the Commission for Diversity, Inclusion & Community Relations.

**Almas Dossa** is the director of home and community-based services at the MassHealth Office of Long Term Services and Supports, and a member of the Racial Justice Action Committee at First Parish in Brookline.

**Eitan Hersh** is an associate professor of political science and civic studies at Tufts University, a data scientist and board member of Brookline for Everyone.

**Kimberley Richardson** is a judicial secretary at the Roxbury Trial Court, a graduate student at BU's School of Social Work, and a board member of Brookline for Racial Justice & Equity.

## Task Force Members

**Mike Sandman** is the chair of Brookline's Advisory Committee and a board member of SCORE Mentors.

**Kristen Singleton** is the Director of Knowledge & Technology Services at Education Resource Strategies, a national educational nonprofit.

**Anne Weaver** is a Town Meeting Member and licensed mental health counselor, and an adjunct professor of counseling, victimology, and trauma and crisis intervention.

**Alexander Weinstein** is a third-year law student at Boston University. He is a board member of the National Transgender Bar Association, and recently interned at the New Hampshire Public Defender.

**Chi Chi Wu** is a staff attorney at National Consumer Law Center and a member of the Brookline Asian American Family Network (BAAFN) Steering Committee.

## Task Force Diversity

This group exceeded the criteria for diversity as outlined in the charge:

*"...at least half of whom are people from communities disproportionately impacted by policing (including Black, Indigenous, People of Color, Women, and LGBTQ+ people)."*

There are six members of color including one Latinx, two Asian, and three Black members, as well as five women, and one transgender member.

Immigrants and one BHA resident are also included among the members.

As a group, we represent a wide variety of ages, identities, and experiences.

## Task Force Staff

Mel Kleckner, Town Administrator

Ann Braga, Human Resource Director

Michael Downey, Associate Town Counsel

Lloyd Gellineau, Chief Diversity Officer

Daniel O'Leary, Former Brookline Chief of Police

Devon Williams, Administrative Services Director

## Process

Weekly full Task Force meetings and subcommittee meetings.

Subcommittees:

- Community Engagement
- Departmental Analysis
- School Resource Officer
- Walk & Talk Unit
- Vulnerable People & People in Crisis

# Survey

## Results from Brookline Policing Survey

Eitan Hersh

Select Board's Task Force to Reimagine Policing in Brookline

February 17, 2021

Eitan Hersh continued the presentation:

### Acknowledgements

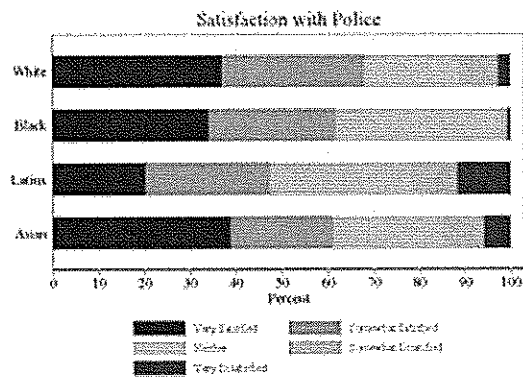
- Survey Design and Implementation: Brian Schaffner
- Funding: Town of Brookline
- Data Analysis and Report: Eitan Hersh



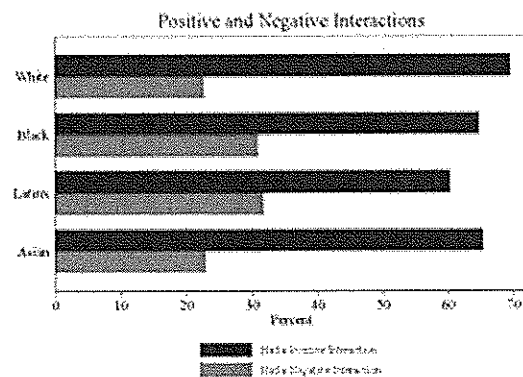
### Methodology

1. Tufts mailers arrived starting 11/23/20
2. 8,586/25,000 (34%) targeted Black, Latinx, Other
  - BHA residents
  - Name/Geography algorithm
3. 5.4% response rate

### Overall Impressions



### Overall Impressions



## 4.A.

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African American and Latino respondents were significantly more likely about 10 percentage points more likely to say they experienced a negative interaction with the Brookline police and also significantly less likely to say they had a positive interaction with the Brookline police

### Overall Impressions

*Do the Brookline police make you feel... (mostly safe; somewhat safe; somewhat unsafe, mostly unsafe)?*

Source: Brookline Police Survey

### Overall Impressions

*Do the Brookline police make you feel... (mostly safe; somewhat safe; somewhat unsafe, mostly unsafe)?*

Race	Pct. Unsafe
White	10
Black	4
Latino	16
Asian	7

Source: Brookline Police Survey

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## Overall Impressions

*How often would you say that you worry about being the victim of police brutality?*

## Overall Impressions

*How often would you say that you worry about being the victim of police brutality?*

Race	Pct. Somewhat/Very Often
White	2
Black	35
Latinx	22
Asian	6

## Overall Impressions

*If you needed help, how comfortable would you feel calling the police?*

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## Overall Impressions

*If you needed help, how comfortable would you feel calling the police?*

Race	Pct. Very Comfortable
White	65
Black	48
Latinox	52
Asian	65

## Overall Impressions

*How effective are the Brookline Police at*

## Overall Impressions

*How effective are the Brookline Police at*

Category	Pct. Effective
Ensuring public safety	91
Fighting crime	91
Making residents feel safe	88
Holding police officers accountable	42
Developing relationships with community	66

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## Discrimination

*Have you ever felt discriminated against by the Brookline police because of your race or ethnicity?*

## Discrimination

*Have you ever felt discriminated against by the Brookline police because of your race or ethnicity?*

Race	Pct Yes
White	0.5
Black	24
Latinx	12
Asian	5

## Discrimination

*Have you ever felt discriminated against by the Brookline police because of your gender?*

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## Discrimination

*Have you ever felt discriminated against by the Brookline police because of your gender?*

Race	Pct Yes
White	3
Black	7
Latinx	3
Asian	1

## Discrimination

*Have you ever felt discriminated against by the Brookline police because of your economic status?*

## Discrimination

*Have you ever felt discriminated against by the Brookline police because of your economic status?*

Race	Pct Yes
White	2
Black	13
Latinx	3
Asian	2

### Discrimination

*How do you think the Brookline Police treat the following groups:*  
**White residents?**

### Discrimination

*How do you think the Brookline Police treat the following groups:*  
**White residents?**

Race	Pct. think whites treated unfairly
White	1
Black	0
Latinx	4
Asian	0

### Discrimination

*How do you think the Brookline Police treat the following groups:*  
**Asian residents?**

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## Discrimination

*How do you think the Brookline Police treat the following groups:  
Asian residents?*

Race	Pct. think Asians treated unfairly
White	14
Black	10
Latinx	19
Asian	13

## Discrimination

*How do you think the Brookline Police treat the following groups:  
Hispanic residents?*

## Discrimination

*How do you think the Brookline Police treat the following groups:  
Hispanic residents?*

Race	Pct. think Hispanics treated unfairly
White	38
Black	32
Latinx	48
Asian	33



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## Discrimination

*How do you think the Brookline Police treat the following groups:*  
**Black residents?**

## Discrimination

*How do you think the Brookline Police treat the following groups:*  
**Black residents?**

Race	Pct. think Blacks treated unfairly
White	46
Black	34
Latinx	53
Asian	42

## Policing Methods

*In given situations, it is possible to have either police or social service workers (such as social workers, medics, or mental health professionals) respond. For each of the following situations, please indicate whether you think it would be better for the police or social service workers to respond?*

### Policing Methods

*In given situations, it is possible to have either police or social service workers (such as social workers, medics, or mental health professionals) respond. For each of the following situations, please indicate whether you think it would be better for the police or social service workers to respond?*

Scenario	Just Police	Just Social Service	Both
Armed Individual	92	1	7
Robbery	97	1	1
Intoxication/overdoses	28	58	14
Mental health crisis	4	63	12
Homeless person	5	87	8
Neighbor dispute	23	64	13
Domestic violence/abuse	42	27	31

### Oversight

*Some communities have Civilian Review Boards which are made up of residents. These boards review the actions of police and hear complaints from residents about police behavior. Do you think Brookline should have a Civilian Review Board?*

### Oversight

*Some communities have Civilian Review Boards which are made up of residents. These boards review the actions of police and hear complaints from residents about police behavior. Do you think Brookline should have a Civilian Review Board?*

Yes	77%
No	7%
Not sure	16%

### Oversight

*If Brookline did create a Civilian Review Board, which of the following powers do you think that board should have? (Select all that apply)*

### Oversight

*If Brookline did create a Civilian Review Board, which of the following powers do you think that board should have? (Select all that apply)*

Role	Pct. Support
Investigate excessive force/abuse allegations	57
Investigate police shootings	76
Evaluate police disciplinary process	68
Set policing priorities	66
Set police policy (e.g. use of force)	52
Fire officers	36
Negotiate police contracts	29
Hire officers	17

### Conclusions

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### Conclusions

- Overall perceptions of the Brookline police are positive, but least positive among Black/Latinx residents
- Black and Latinx residents are 15 times more likely to worry about police brutality than white residents
- Black and Latinx mostly feel safe in Brookline but are less comfortable calling Brookline police when in need compared to White/Asian residents
- Residents do not believe Brookline police is effective at holding officers accountable for their actions

### Conclusions

- Black residents much more likely than others to feel discriminated against by Brookline police on the basis of race, gender, and economic status
- 30-50% of Brookline residents of all racial groups perceive that the Brookline police treats Blacks and Latinx residents unfairly
- Brookline residents have a strong preference for social service workers responding rather than police in scenarios including mental health crisis, overdose, homelessness, and neighbor disputes
- Residents overwhelmingly believe that Brookline should have an oversight board
- Residents support a board investigating police misconduct and excessive force, evaluating disciplinary procedures, and setting policing priorities.

### Results from Brookline Policing Survey

Eitan Hersh

Select Board's Task Force to Reimagine Policing in Brookline

February 17, 2021

## Community Engagement & Envisioning

### Community Engagement & Envisioning

#### Members

Bonnie Bastien

Malcolm Cawthorne

Eitan Hersh

Chi Chi Wu

Kristan Singleton, Subcommittee Chair

### Community Engagement & Envisioning

#### Background

The envisioning and community engagement subcommittee was formed to assess and engage the Brookline community on its perspectives, attitudes, needs, and wants regarding public safety. The charge of this subcommittee is to ensure that the attitudes and perspectives of both white residents and residents from communities of color are thoughtfully included in the recommendations, applying a racial equity lens to analysis of current practices and recommendations for improvement.

## Community Engagement & Envisioning

Malcolm Cawthorne continued the presentation:

### Community Engagement & Envisioning

#### Members

Bonnie Bastien

Malcolm Cawthorne

Eitan Hersh

Chi Chi Wu

Kristan Singleton, Subcommittee Chair

### Community Engagement & Envisioning

#### Background

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## Community Engagement & Envisioning

### Process

- Going Small Campaign - instead of asking citizens whom may already feel marginalized and intimidated by Town agencies, we started small by meeting with organizations and individuals
  - = Brookline Racial Justice and Equity (BRJE)
  - = Brookline Budget Justice
  - = Interviews with individual residents who live in Brookline Public Housing
- Discussion with Current and Former Brookline Police
  - = Lieutenant Jennifer Paster, Officer David Pilgrim and Former Chief Daniel O'Leary
- Interviews and discussions with youth service providers in Brookline
  - = Alicia Adamson, Director of the Brookline Teen Center
  - = Leigh Jackson, Director of Brookline Recreation

## Community Engagement & Envisioning

### Key Findings

- Survey data shows that there is a general satisfaction with BPD and a majority of respondents report real issues with transparency and racial discrimination
- Each subcommittee points to distinct things to add, remove or make radical changes through its findings
- BPD Community Engagement is done and evaluated without a community voice or lens to substantiate its successes

## Community Engagement & Envisioning

### Recommendations

1. Implementing a child-centric vision of public safety
1. Public safety website – Needs for continuing the work
1. Community engagement not community policing
1. Eliminating unintended one-way relationships
1. Going small – Trust-building community conversations

## Departmental Analysis

Chi Chi Wu continued the presentation:

### Departmental Analysis

#### Members

Eitan Hersh, Subcommittee Chair

Raul Fernandez, Task Force Chair

Mike Sandman

Chi Chi Wu

### Departmental Analysis

#### Background

The mission of this subcommittee was to engage in a high-level review of the structure and functions of the Police Department. The subcommittee ended up focusing on a process question: how to ensure an ongoing structure for re-evaluation, stakeholder input, and oversight of the Police Department.

The subcommittee also focused analyzing functions for possible restructuring that were not the focus of other subcommittees, and ultimately ended up focusing on restructuring traffic enforcement.



## Departmental Analysis

### Process

Spreadsheets comparing Brookline to other municipalities - Links in Appendix I

Interviews (Appendix H) with:

- Former Chief Daniel O'Leary, Interim Chief Morgan
- Jivan Sobrinho-Wheeler, City Council, Cambridge, MA, Rigel Robinson, City Council Berkeley, CA
- Rahsaan Hall, ACLU of Massachusetts

Traffic enforcement data presented by Former Chief O'Leary (Appendix K)

Presentation on traffic patterns by Transportation Administrator Todd Kirrane

## Departmental Analysis

### Key Findings

#### Process

- Need for informal and formal citizen input and oversight
- 77% of survey respondents supported having a civilian oversight board in Brookline

#### Traffic enforcement

- Black motorists disproportionately more likely to be stopped by Brookline Police
- Motorists of color, particularly Asian Americans, more likely to receive tickets
- State law requires traffic citations to be issued by police officers

### Traffic citation statistics

	White	Black	Latinx	Asian
2019 traffic citations	58.1%	16.8%	11.2%	8.4%
2018 traffic citations	59%	18%	9%	8%
Brookline population	74.1%	3.2%	7.8%	15.9%

## 4.A.

In Select Board

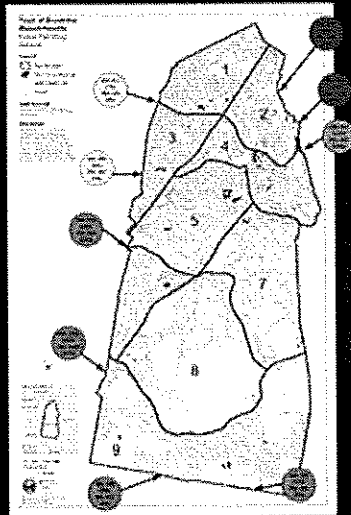
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84%- 86% of motorist stopped by the police in Brookline, are non-residents

The Transportation Administrator's presentation to the committee did give us a good indication of what the denominator is once we're trying to calculate if there are racial disparities or not

### Traffic Analysis



### Census Data from Traffic Originating Neighboring Municipalities

Neighborhood/Municipality	White	Black	Latinx	Asian
Brookline	74.1%	3.2%	7.6%	15.9%
Alston	54%	6%	14%	22%
Brighton	65%	4%	11%	16%
Fenway	60%	4%	12%	20%
Jamaica Plain	55%	11%	24%	6%
Longwood	70%	6%	10%	11%
Mission Hill	44%	16%	20%	18%
West Roxbury	60%	10%	10%	8%
Newton	77%	3.3%	6%	14.6%
Wellesley	60.3%	2.9%	5.1%	12.4%
Roslindale	61.6%	1.9%	4.1%	12.9%
Frammingham	69.5%	7.3%	16.1%	7.9%
Somerville	61.7%	0.7%	3.9%	14.4%
Dedham	64.3%	8.2%	6.7%	2.7%
Norwood	64.4%	7.2%	6.8%	5.4%
Walspole	65.1%	1.5%	10.5%	5.4%
Watertown	62.8%	1.6%	9.2%	9.9%
Cambridge	66.1%	10.7%	9.5%	16.7%

## 4.A.

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	2018			2019		
	Ticket	Warning	Other (Arrest; Court; Void)	Ticket	Warning	Other (Arrest; Court; Void)
White	9.9%	88.1%	2.0%	12.5%	86.7%	.8%
Black	8.9%	87.7%	3.4%	12.3%	84.9%	2.8%
[East/SE] Asian	15.6%	83.7%	1.6%	16.3%	82.3%	1.5%
[South]Asian	13.3%	86.3%	.04%	16.1%	82.4%	1.5%
Hispanic	12.8%	82.9%	4.3%	14.7%	81.7%	3.6%
Other/unknown	8.3%	77.8%	13.9%	11.4%	77.2%	11.4%

Citations vs  
warning vs.  
arrests

### Departmental Analysis

#### Recommendations

#### Process

- Creation of formal Civilian Oversight Board

#### Traffic enforcement

- Introduction of a bill or Home Rule petition in the state legislature permitting certain limited traffic functions to be fulfilled by civilians.

Board member Fernandez: There were over 1000 stops for speeding. This is not looking through a windshield at night trying to figure out what the race of the driver is this; the stop has been made and its determination has been made by the officer. When white motorists, who are the vast majority of motorists that are stopped, less than one third of them get a ticket. When Asian motorists are stopped almost one half of them get a ticket as we see in nearly every category. If you're a white driver you are much more likely to get off with a warning than if you're a driver of color

# Programs

Alexander Weinstein continued the presentation:

## Program Analysis

- Is this program necessary?
- Does it fit within the scope of police duties?
- Do the benefits outweigh the costs, especially for communities of color?
- Could these resources be better spent elsewhere?

# School Resource Officer

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## School Resource Officer

### Members

- Malcolm Cawthorne
- Kristan Singleton
- Kimberley Richardson
- Alexander Weinstein

## School Resource Officer

### Key Findings

- SRO program was instituted without public approval
- No legal need to have SROs
- Primary benefit is police, not families
  - No evidence SROs make students feel safer
  - Most parents don't know police officers are in schools
- No public evaluation process for SROs, or shared data of effectiveness with schools

## School Resource Officer

### Recommendations

- Remove SROs from schools
  - = Doesn't preclude other relationships with police
- If determined to keep SROs, must discover that determination through a rigorous public process
  - = Still remove SROs in the meantime
  - = Time sensitive

## Walk & Talk Program

Bonnie Bastien continued the presentation:

## Walk & Talk Program

### Subcommittee Members:

- Bonnie Bastien (Chair)
- Kimberley Richardson
- Anne Weaver

## Walk & Talk Program

### History

- Started in 1992 by then Lieutenant Daniel O'Leary, Detective Morgan, Chief Simard, and Brian Cloonan (BHA - ED), and Matthew Baronas (BHA - Assist. ED)
- No contracts, no MOU's, no assessments, or written shared objectives between the BHA and the BPD in the 30 year history of the program.
- Created to:
  - Diffuse and divert residents cycling in and out of the criminal justice system
  - Build relationships with BHA residents
  - Make residents comfortable alerting officers to potential problems.

## Walk & Talk Program

### Key Findings:

- The Reform Committee survey showed there are residents that approve of the program, but Black and Latinx voices under the age of 50 were not adequately represented
- Black BHA residents, former residents, and organizations that work closely with BHA residents say W&T program is a detriment
  - Extreme hesitancy to speak freely about the police
  - Reported feeling that their children are being surveilled and that they are being policed in their own homes
  - Police officers trigger anxiety and the impulse to avoid interaction with officers or act in a way that won't draw attention
  - In some instances, police officers are a barrier to accessing emergency social services

## Walk & Talk Program

How do we weigh the information?

"Majority wins" measurement won't work

- Almost every person we spoke with about the program that disliked it was Black
- Black and brown residents are a small minority in Brookline. When those voices are drowned out, we uphold racist systems.
- The W&T program is a part of a public safety strategy, therefore if some of the community feels unsafe because of the program itself, then the strategy is not providing public safety.

The central question of our work is :

"Are police officers the best or even the most logical professionals suited to providing social services and building personal relationships in a multi-racial housing authority?"

The answer is no.

## Walk & Talk Program

### Recommendations

- In the short-term, develop an effective, comprehensive, and easily accessible website that provides access to currently available social services and other resources, and centralizes the advocacy and visioning work toward a new, community-driven public safety system.
- Center the people most affected by public safety challenges in the process to develop an improved system of public safety. Continue the community engagement work that we have begun which is outlined in the Community Engagement/Envisioning subcommittee report. Our work does not end here. This is only the beginning.
- We recommend that the Walk & Talk program either be disbanded and replaced with a new system or slowly phased out as other services and supports are developed alongside the W&T program.

# Vulnerable People & People in Crisis



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Anne Weaver continued the presentation:

## Vulnerable People & People in Crisis

### Members

- Anne Weaver
- Almas Dossa
- Alexander Weinstein

## Vulnerable People & People in Crisis

### Background

- Focus on the people in Brookline who may be unhoused, have mental health, or substance use issues
- Determine if there were unmet needs
- Determine if the current services and programs were effectively supporting the needs of the community
- Recommend changes

## Vulnerable People & People in Crisis

### Process

- Literature review
- Interviews
  - = Brookline Police Department CIT staff and social worker
  - = Brookline Center for Community Mental Health
  - = Mental Health First
  - = CAHOOTS consulting
- Task Force Community Survey
- Public feedback

## Vulnerable People & People in Crisis

### Key Findings

- Gaps in pre-crisis and follow-up services
- Need for, and high community support for, non-police crisis services according to the survey
- CIT program is not evidence-based

## Vulnerable People & People in Crisis

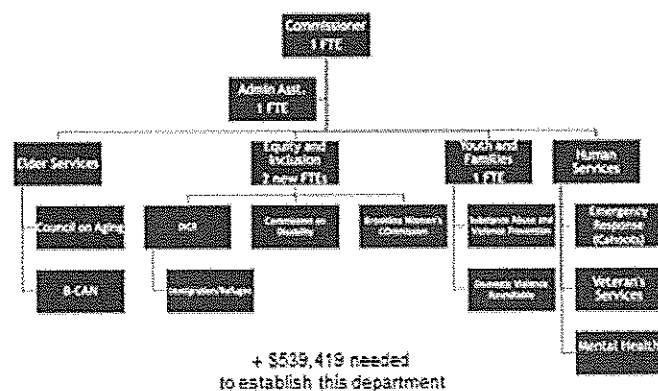
### Recommendations

- 1) Consult with CAHOOTS
- 2) Implement additional pre-crisis services and follow-up services
- 3) Publicize existing social services
- 4) Form a Social Services Department in Brookline that would implement recommendations 1-3

# Brookline Forward

**Brookline Forward** will provide Brookline residents with the services and supports they need to thrive. A new, innovative department of the Town of Brookline, Brookline Forward will partner with the Brookline Housing Authority, the Public Schools of Brookline, the Brookline Senior Center, and local social service agencies to deliver timely, critical services, while conducting research, analyzing data, and implementing programs designed to counteract economic, health, and other inequities deeply rooted in racism, sexism, ageism, and other forms of oppression.

### Brookline Forward



# Brookline Forward

## 4.A.

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Mike Sandman continued the presentation:

I've been told that some of my fellow Task Force members came with a preconceived set of ideas about policing that they had radical plans to defend the police. That certainly wasn't true for me. I am not a progressive Democrat. I am a recovering Republican, nor did it turn out to be true of the task force as a whole. We did our work in the spirit of open inquiry. Let's take an example, the walk and talk program operates in the Brookline housing authority properties and nowhere else. The officers love their work. They approach it with goodwill in their heart. The task for survey data that we gathered shows that minorities are very wary of interacting with police officers. The well-meaning effort of the walk and talk officers is viewed with suspicion. We may shake our heads and dismay, but it's a fact. Looking at this problem more broadly police officers join up to protect the community and to enforce the law, but we're also asking them to provide social services. Given American history and experience, it's no surprise that the combination doesn't work very well. The Task Force recognizes that and therefore recommends combining the town social services including services delivered by the police. A single new department has a cost. Yes, but we're spending our money now on programs that don't serve the punitive beneficiaries

Q&A:

Submitted: Deborah Brown, TMM P1  
Select Board Speech  
Topics: Spending and Police Reform

Thank you for the opportunity to speak. I would like my comments to be made part of the administrative record. I will forward them to Devon.

I want to raise two issues – how SB managed to spend \$70k for a consultant, attorney Natasha Tidwell, to review the Town's approach to litigation involving Gerald Alston and nothing to show for it.

Second, I want to discuss police reform committee's work product. I know you invested time and energy, but that is not the test. What you produce is how you should measure your work.

I looked up the term "reform." Merriam Webster says:

to put or change into an improved form or condition. b : to amend or improve by change of form or removal of faults or abuses. 2 : to put an end to (an evil) by enforcing or introducing a better method or course of action. 3 : to induce or cause to abandon evil ways reform a drunkard.

Using a choke hold in gest was my first introduction to the committee. It never recovered.

I would ask that you reject their finds as they do little to improve police reforms.

Recommendations are expensive. They are seeking upwards of 10 ftes.

**Reform Era:** Because the Political Era of policing ended up being laced with corruption and brutality, the panacea for the negativity became the Reform Era. One police chief was largely at the forefront of this new era, Chief **August Vollmer**. He is considered the pioneer for police professionalism. August Vollmer was the Chief of Police in Berkeley, California (1905-1932). He had many new beliefs about policing that would forever change the world of policing:

1. Candidates who were testing to be in policing had to undergo psychological and intelligence tests
2. Detectives would utilize scientific methods in their investigations, through forensic laboratories

## In Select Board

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3. Recruits, for the first time, would attend a training academy (police did not receive any formal training prior to August Vollmer's arrival)

4. Assisted with the development of the School of Criminology at the University of California at Berkeley

Chief August Vollmer saw policing and officers as social workers that needed to **delve into the causes behind the acts in order to solve the issue, instead of just arrest it.** <sup>[3]</sup> He knew in order to rehabilitate offenders, police officers needed to look behind the handcuffs and start looking into the person and reason behind the behavior.

**Current Trends**

Transformation of police departments, their role and relationship to our communities requires a change in culture, accountability, training, policies and practices. It also requires strong leadership and transparency. Without organizing our communities and building power nothing will change.

Below are five issues that should be part of any effort to reform policing in local communities. This is not an exhaustive list but it's a start. (Hyperlinks to resources are provided.)

**1.Accountability and Transparency**

**The lack of trust for law enforcement that exists in so many communities** is due in part to lack of accountability and transparency. Too many failures to indict officers and too many acquittals have left communities feeling that there is no justice. When someone is killed and no one is held responsible it not leaves people of color feeling vulnerable. To build trust, there must be consequences and the public must have information.

a. Accountability: **Police departments should not investigate themselves.** Nor should justice depend on prosecutors who rely on local law enforcement for evidence in cases they bring. Instead, accountability systems should be directed by the communities that police departments are supposed to protect and serve.

b. Transparency: **Improved data collection and reporting practices are necessary to expose interactions with law enforcement and as a tool of accountability.** There is no federal database tracking the number of people killed by law enforcement, use of force, or stop-and-frisks. Many local departments do not keep this important data either. Departments should collect and release this data to the public annually. The Center for Policing Equity is developing a database that 50 police departments have already agreed to use. President Obama's Taskforce on 21st Century Policing recommended that local police departments make all policies and data publicly available.

**2.Excessive Use of Force**

Data indicates that Black men are 21 times as likely as White men to be killed by law enforcement. Black women, Transgender people, Native American and Latinx communities are also disproportionately killed or assaulted by law enforcement. **Racial disparities in use of force cannot be explained by disparities in crime rates. So what can you do? Demand that your local police department: (a) create strong community-centered accountability systems, (b) release and improve use of force policies, (c) release data on all law enforcement activities, and (d) improve training.**

a. Use of Force Policies: There are no national standards on use of force, but some police departments have adopted policies intended to reduce excessive force. Such policies prohibit acts such as neck holds, head strikes with a hard object, and using force against persons in handcuffs.

b. Improved Training: Law enforcement should be required to go through racial bias training in addition to building skills in problem-solving, conflict mediation, and de-escalation tactics.

**3.Discriminatory Stop-and-Frisk Policies and Practices**

In New York City, data showed 81% of people stopped-and-frisked were innocent and 84% of all people stopped were Black or Latinx. In Chicago, Black people are 32% of the population, but 72% of all stops. Unfortunately, these policies and practices are not exclusive to New York City and Chicago. Does your local police department use these practices? If so, do they track data on such practices? Demand answers from your police department. Call for an end to targeting and profiling in communities of color.

4.Broken Windows Policing – That is the BHA policy of having officers present? The same for the schools Walk and Talk

In Select Board

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Going after people for minor code violations. These practices stem from the “broken windows” theory which asserts that **addressing low-level “disorder” issues, such as broken windows, is necessary to prevent more serious crimes. However, many criminal justice experts have concluded that broken windows theory is actually just a form of “informal social control.”** The practices that stem from broken windows theory, such as stop-and-frisk, disproportionately affect Black and Brown communities and there is no evidence that they are effective at reducing crime. What can you do? Read the recommendations offered by the Department of Justice in Section V of the Ferguson Investigation and talk to your neighbors about whether any of the recommendations are right for your community. **Some recommendations include (a) the prohibition of ticketing and arrest quotas and (b) supervisory approval before someone can be arrested for “failure to comply,” “resisting arrest,” “disorderly conduct,” or “disturbing the peace.”**

5. Inadequate Training – Officers are primed to believe that Black people are criminals

The majority of law enforcement training emphasizes technical and tactical aspects of policing. There is an insufficient amount of training focused on anti-racism, implicit bias, mental illness, age-appropriate responses, problem-solving, mediation or cultural competency. So, it is not surprising that many law enforcement officers are primed to perceive Black people as criminals and respond based on that stereotype. Recently, the Department of Justice announced that it would start training all of its officers on implicit bias. Is your police department conducting such training? If not, demand it! The Center for Policing Equity conducts training for free if your police department will share data.

These are just a few issues to get started on. Other issues to target include constant surveillance and targeting of Muslim, Black and Latinx communities; immigration enforcement by local police; undercover agents entrapping queer communities of color; and, the role of police in schools. There are more transformative changes that can be done to end the over-policing of our communities. For example, groups like Spirit House in NC and Safe OUTside the System (SOS) Collective are working to **reduce reliance on police in their communities**.

Sources:

SOU-CCJ230 INTRODUCTION TO THE AMERICAN CRIMINAL JUSTICE SYSTEM, 6.3. Policing Eras, TIFFANY MOREY

The Change We Need: 5 Issues that Should Be Part of Efforts to Reform Policing in Local Communities, <https://advancementproject.org/the-change-we-need-5-issues-that-should-be-part-of-efforts-to-reform-policing-in-local-communities/>

Board member VanScoyoc: this is very important work. I do think it will lead to substantial changes; my own personal preference is that those changes be worked out cooperatively and collaborate with people from the police department itself. I think that there's many in the police department who are anxious to see the police department move into the policing of tomorrow. He spoke on some data results related to social workers vs. police officers in various situations that indicated most residents would prefer social worker. He feels this survey is skewed because there was no opportunity to indicate both. He feels that the narrative of the report feels does not match the survey. He feels the overwhelming number of residents surveyed would have chosen both.

Board member Fernandez: I wish if you found a flaw you would have given us an opportunity for us to take a look to review. We looked at the data we had. I don't think that that one question on the survey discredits the work or the survey or the work of this task force.

Eitan Hersh responded that he had mentioned to Mr. VanScoyoc in private that he would be happy to talk to you or other members of select board about the findings about the analysis to rerun the analyses. He is perplexed that that it is being suggested that the work and the results would be discarded because one does not like the results.

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Mr. VanScoyoc responded it is not that he does not like the survey he just finds the narrative does not match.

Board member Heller: Be careful when you draw conclusions. How many people in both reports were surveyed? Did the results match the different groups in Brookline?

Eitan Hersh responded that close to 1400 responded, by far most representative of the community. If 10 or 20% feel discriminated against, then that's a huge problem and other people might perceive that as not a huge problem. We used weights to recalibrate all the analysis to the population percentages, and so all of the analysis that I showed was using those kinds of weights, a standard kind of procedure.

Vice Chair Hamilton: Over the past years there has been press coverage about policing and I'm wondering if there was any way to account for people's perception being shaped by what they're seeing on the news in the survey.

Eitan Hersh responded that many of these questions were about the Brookline police; it was not getting at general perceptions.

Chair Greene I feel it is a legitimate point because most people in Brookline in general, including black people have very little contact with the police, and may be influenced on their views by outside events. He indicated this is an assumption.

Eitan Hersh : We actually do have survey evidence on that, it is in the report. Most African Americans in Brookline, who took the survey, but not most people of other races reported that they had recent contact with the police.

Anne Weaver: To address that our recommendations as a task force were predominantly influenced by the survey, I would like to push back on that a little bit. In the vulnerable people and people in crisis subcommittee, we took different approaches for our finding, which is in the report. The survey was only a small part of the reporting.

Mike Sandman: The traffic stops data came from our police department and nothing to do with the survey. After reviewing the data it was so convincing that drivers who are people of color are treated differently than white drivers. It was very hard to conclude anything else from that data that was collected from the transportation department and the police department.

Board member VanScoyoc added if you look carefully at the numbers a couple of things stand out. They tend not to get emphasized when this part of the data is reported. When looking at the 2018 to 2019 in appendix K combined results, what happens when people are stopped, s that overwhelmingly they are given warnings. That's all, warnings. Only point10% (.10%) were arrested. Mr. VanScoyoc feels that looking at the data in the report there is a discrepancy when looking at the percentage of warnings to every single group.

Chi Chi Wu responded that all of the traffic statics are not in appendix K, the data came from the year end report. That shows the number of black motorist that were stopped which is most startling table and show very significant disparities.

## 4.A.

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Chair Greene: No one from the reform committee's standpoint is denying that there are disparities based on bias and police stops, field interrogations and an arrest, and that's assumed. We are trying to figure out what is the precise nature of that, and that is why we talked about these benchmarks studies. One of our approaches is to have a police commissioner advisory committee, to determine to extent possible, the extent of disparity and to reduce or eliminate the impact of disparity.

Board member Fernandez added that their concern is about the intersection of bias and armed policing. We often see a lot of these police shootings somehow connected to traffic stops. That is what we are trying to prevent here. What our committee is proposing is a shift in how we engage with our community and that shift is to invest resources in non-police social services and reset our social services here in Brookline. Please review our executive summary which is only ten pages.

There being no further business, the Chair ended the meeting at 11:00 pm.

ATTEST



Q&A

Open(2) Answered(7) Dismissed(4)

**Bob Lepson** 06:57 PM

Question 1: Dr. Jett indicated that we had 1000 doses of the vaccine, but only used 997. What happened to the other three?

Type your answer here...

☐ Send privately

Cancel

Send

**Bob Lepson** 06:59 PM

Question 2: Out of curiosity...who is getting tested in town? Routine tests for people for need it for their jobs or for people who suspect they may have been exposed or have symptoms themselves?

Answer live

Type answer

Q&A

Open(2) Answered(7) Dismissed(4)

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Answer live

Type answer

## 4.A.

**Miriam Aschkenasy** 08:29 PM

Thank you John I have a voice to text on my computer but I typically ask permission b/c it is a form of recording.

Answer live

Type answer

**Chi Chi Wu** 08:35 PM

FYI just yesterday one of the Constables, Neil Gordon, responded to one of my tweets on Twitter that "I can't speak to foreclosures, but evictions in Brookline have been relatively rare. I've done just three in eight years as a Brookline Constable".

Answer live

Type answer

**Miriam Aschkenasy** 08:50 PM

X Dismiss

Yes, generally very good. I use an online program called Otter that takes any zoom/lecture of any kind and does live voice to text and records it for later reference. Since it is a recording you need to get permission in the state of MA. I suggest in the future all SB should just offer CC via zoom webinar if possible.

## 4.A.

**Savyon Cohen** 06:10 PM

Hi Devon, Jonathan Mande is unable to get in using the link you provided to him. Can you assist, if possible? Thank you!

Collapse all (1) ^



**You** 06:12 PM

Hi Savyon, I've sent him a few emails and included him on the outlook invite so he should have the correct information. Thanks!

Type answer

**Miriam Aschkenasy** 06:25 PM

I don't see the speakers video?

Collapse all (1) ^



**You** 06:27 PM

Hi Miriam, thanks for reaching out. Each speaker has the choice of sharing their video or not. It appears he has not enabled the video.

**Alexander Weinstein** 07:51 PM x Dismiss

I'm fascinated by Jeff Nutting's mention of the 1700s-1800s documents which require restoration. Has Brookline considered donating these documents to a local historical organization which has the resources to restore them? The Massachusetts Historical Society is excellent, and they preserve many precious documents of a similar age. That might improve public accessibility to these documents, and relieve Brookline of the burden of restoring them ourselves.

4.A.

4.A.

**Savyon Cohen** 10:12 PM  
So much for listening with an open mind.

X Dismiss

**Jonathan Mande** 06:30 PM

May I respond to that?

Collapse all (1) ^



**You** 06:30 PM

Hi Jonathan, I will ask the Chair and Vice Chair.

Type answer

**Jonathan Mande** 06:31 PM

Okay. That was wrong what he said and was a direct attack to me and I need to be able to respond.

Collapse all (1) ^



**You** 06:33 PM

Hi Jonathan, I would encourage you to sign up next week to respond. The public comment period isn't designed to be a back and forth. Thank you for understanding!

**Alexander Weinstein**

07:51 PM

I'm fascinated by Jeff Nutting's mention of the 1700s-1800s documents which require restoration. Has Brookline considered donating these documents to a local historical organization which has the resources to restore them? The Massachusetts Historical Society is excellent, and they preserve many precious documents of a similar age. That might improve public accessibility to these documents, and relieve Brookline of the burden of restoring them ourselves.

Answer live

Type answer

**Alexander Weinstein**

07:52 PM

For context on what MHS can handle, they hold one of the original copies of the Declaration of Independence, and the original papers of John Adams and his family.



**Ryan (he/him) Black** 10:40 PM ✕ Dismiss  
John, you have to realize how your statements stink of  
confirmation bias

4.A.

**Bob Lepson** 06:57 PM

Question 1: Dr. Jett indicated that we had 1000 doses of the vaccine, but only used 997. What happened to the other three?

Answer live

Type answer

**Miriam Aschkenasy** 07:57 PM

Is there an option for closed captions for this meeting?

Hi Miriam, I don't believe I can enable that during the meeting but I can check in with our ADA specialist and see what needs to be done moving forward. Thanks for asking!

4.A.

Ryan (he/him) Black 10:50 PM  
dpm

**Savyon Cohen** 06:33 PM

The SB has often said they do not respond to public comment. Has that policy changed?

[Collapse all \(1\)](#)



**You** 06:34 PM

Hi Savyon, I know the public comment policy is under review! I will share your inquiry with the Board.

## 4.A.

**Miriam Aschkenasy** 08:00 PM

Great I lip read and this meeting is long so it gets very tiring.  
CC is much preffered.

Answer live

Type answer

**Miriam Aschkenasy** 08:00 PM

that is to say I am HOH so I lip read

Answer live

Type answer

**Savyon Cohen** 08:12 PM

(If there is time) Chair Greene said morale in the police dept.  
was "very low." What was morale measured at previously  
that tells us it is now low?

Answer live

Type answer

**Ade Ijanusi** 08:14 PM

Instead of pcac why not the civil review board with more civil  
residents involved

## 4.A.

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residents involved



**TOWN OF BROOKLINE**  
*Massachusetts*  
**DEPARTMENT OF PUBLIC WORKS**

*Erin Chute Gallentine*  
 Commissioner

## **Interoffice Memorandum**

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To: The Select Board

From: Erin Chute Gallentine, Commissioner of Public Works  
 Todd M. Kirrane, Transportation Administrator

Date: March 3, 2021

Re: Request to Approve an Extra Work Order with VHB and Execute a revised Memorandum of Understanding with the Massachusetts Bay Transportation Authority (MBTA)

Cc: Mel Kleckner, Town Administrator

Recommended for award and prepared for your signatures, please find **Amendment # 1 with VHB relative to their contract for the Feasibility Study of Bus Prioritization within the Gateway East project area with VHB, 101 Walnut Street, Watertown, MA 02472 in the amount of \$14,500 and a revised Memorandum of Understanding with the MBTA, 10 Park Plaza, Boston, MA 02116** to reimburse the Town for the total cost of the VHB study up to \$41,000.

At the August 11, 2020 meeting the Select Board approved a contract with VHB to prepare a feasibility study for the Transportation Board relative to implementation of a priority bus lane on Washington Street from Station Street to the townline. At the same time, the Board approved a MOU with the MBTA to reimburse the Town for the cost of the study up to \$26,500. This study was presented to the Transportation Board in November 2020 and following 2 public hearings, 2 public meetings, and several community meetings the Transportation Board unanimously passed the implementation of the bus lane for a 1 year pilot with the condition that the MBTA cover all costs for implementation and that the Board approve a final plan before installation.

Because the proposal impacts Boylston Street eastbound, which is under the jurisdiction of MassDOT District 6, the Town and the MBTA must secure their approval as well. As a result of conversations with MassDOT, VHB has been requested to provide additional analysis. This amendment is for VHB to conduct the additional analysis and attend meetings with MassDOT and the MBTA to discuss. As with the initial contract, the MBTA will be reimbursing the Town for the cost of the amendment and have provided the revised MOU to incorporate the total amount.



## 4.B.

**Agreement By and Between**  
**The Town of Brookline**  
**and**  
**Vanasse Hangen Brustlin, Inc.**

### **CONSULTANT AGREEMENT**

THIS AGREEMENT (the “**Agreement**”) is entered into as of the \_\_\_\_ day of March, 2021, between the Town of Brookline Department of Public Works with offices at 333 Washington Street, Brookline, Massachusetts 02445 (“**CLIENT**”) and Vanasse Hangen Brustlin, Inc. with offices at 101 Walnut Street Watertown, Massachusetts 02472 (“**CONSULTANT**”). Each of CLIENT and CONSULTANT may be individually referred to as a “party” and collectively as the “parties”, as the context so requires.

WHEREAS, CLIENT desires to engage CONSULTANT for the purpose of performing an evaluation of the feasibility of implementing dedicated bus lanes along Route 9 in Brookline Village (the “**Services**”); and

WHEREAS, CONSULTANT represents that it possesses sufficient skills and experience to perform the Services in a timely and professional manner, and

NOW, THEREFORE, in consideration of the foregoing and the covenants and conditions herein contained, the parties agree as follows:

#### **ARTICLE 1 - SCOPE OF SERVICES**

- 1.1 CONSULTANT shall perform the Services as set forth in Appendix A.
- 1.2 Additional services are those services that are not part of the Services contemplated in Appendix A. If CLIENT shall request additional services of the CONSULTANT, the CLIENT and CONSULTANT shall determine the cost and payment method to be utilized as an addendum to this Agreement.

#### **ARTICLE 2 - TERM OF CONTRACT**

- 2.1 The term of this Agreement shall commence on the date first written above and shall remain in full force and effect until the Services are completed, unless sooner terminated. If any CONSULTANT Services are required past this planned completion date, CLIENT, may extend this Agreement for a term agreed to by the parties. CONSULTANT shall not be responsible for failure to perform or for delays in the Services arising out of factors beyond the reasonable control or without the fault or negligence of CONSULTANT.

#### **ARTICLE 3 - PAYMENT FOR SERVICES**

- 3.1 For performance of the Services, CONSULTANT will be compensated as contemplated in Appendix A.
- 3.2 CLIENT shall make payment to the CONSULTANT for work performed in accordance with Appendix A.
- 3.3 Payments will be made to CONSULTANT pursuant to the submission of a payment request by CONSULTANT. Such payment request shall be submitted to CLIENT. Payments to CONSULTANT from CLIENT will be made within thirty (30) days from the date of the submission of a payment request by CONSULTANT.

**ARTICLE 4 – INDEMNIFICATION/LIMITATION OF LIABILITY**

- 4.1 To the fullest extent of the law, CONSULTANT shall indemnify, defend, and hold harmless CLIENT from and against all claims, damages, losses and expenses to the extent caused by or resulting in whole or in part from the willful misconduct or negligent acts, errors or omissions of CONSULTANT.
- 4.2 CONSULTANT assumes exclusive liability for and shall defend, indemnify, and hold the CLIENT harmless from and against the payment of: (i) all contributions, taxes or premiums (including interest and penalties thereon) which may be payable under any and all federal, state and local tax withholding laws measured upon the payroll of, or required to be withheld from, CONSULTANT or its subconsultants' employees engaged in the Services; (ii) all sales, use, personal property and other taxes (including interest and penalties thereon) required to be paid or collected by CONSULTANT or its subconsultants in connection with the performance of the Services; and (iii) all pension, welfare, vacation, annuity and other union benefit contributions payable under or in connection with labor agreements with respect to all persons engaged in the Services.
- 4.3 CLIENT agrees that CONSULTANT's liability to CLIENT for negligent performance of the Services, negligent performance of professional acts, errors or omissions, or breach of contract shall be limited to the total fee paid to CONSULTANT under this Agreement.
- 4.4 In no event shall either party be liable to the other party for any special, indirect, incidental, punitive, exemplary or other consequential damages arising out of this Agreement, including, but not limited to, loss of profits or revenues.

**ARTICLE 5 - INDEPENDENT CONTRACTOR RELATIONSHIP**

- 5.1 It is hereby agreed that CONSULTANT is an independent contractor. CONSULTANT represents and warrants that all taxes and insurance premiums required by this Agreement or by law will be the sole responsibility of CONSULTANT.
- 5.2 CONSULTANT is not, for any purpose, an employee or agent of CLIENT and CONSULTANT shall not make any representation to the contrary, either express or implied. CONSULTANT understands and agrees that as an independent contractor, it does not have any authority to: sign contracts, notes, or obligations, make purchases, or acquire or dispose of any property for or on behalf of CLIENT.
- 5.3 Employees. All employees assigned by CONSULTANT to the Project shall remain employees of CONSULTANT at all times and shall not be deemed to be or designated as employees of CLIENT. CONSULTANT shall pay, or cause to be paid, and CLIENT shall have no liability to pay, the following costs for such employees in connection with the Services provided by CONSULTANT pursuant to this Agreement: social security, income taxes, employee benefits, vacations, holidays, or other employee benefits or taxes incurred by or on behalf of or for the benefit of CONSULTANT or its employees. CLIENT's sole obligation with respect to reimbursement of costs associated with CONSULTANT'S Services is to pay the fees and any approved expenses for such CONSULTANT employee(s) performing Services under this Agreement.

**ARTICLE 6 – TERMINATION**

- 6.1 Either Party may terminate this Agreement, upon seven (7) days' notice for any reason, including for convenience. In the event of such termination, CONSULTANT shall be compensated for all expenses rightfully incurred and compensable pursuant to this Agreement.

**ARTICLE 7 – NOTICES**

- 7.1 All notices, demands, requests, consents, approvals and other communications which may or are required to be given by either party under this Agreement must be in writing and sent by United States registered or certified mail, postage prepaid, return receipt requested or a national

## 4.B.

overnight carrier, and addressed to the party for whom it is intended at its address set forth in the preamble paragraph of this Agreement.

### **ARTICLE 8 - GOVERNING LAW**

- 8.1 This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any action arising out of this Agreement or the Services shall be brought exclusively in the Superior Court of the Commonwealth of Massachusetts, in Massachusetts, or in the United States District Court for the District of Massachusetts. Each party hereto and future signatory hereby consents to the personal jurisdiction of these courts and waive any objections that such venue is objectionable or improper.

### **ARTICLE 9 – SEVERABILITY**

- 9.1 Should any provision of this Agreement be deemed invalid or unenforceable, such provision shall be severed from this Agreement, such that the remaining valid and enforceable provisions remain intact. The parties will endeavor to promptly negotiate a revised term or condition to replace that which was deemed illegal or unenforceable.

### **ARTICLE 10 – ENTIRE AGREEMENT**

- 10.1 This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and completely and fully supersedes all other prior understandings or agreements, both written and oral, between the parties. All previous communications and representations, whether oral or written, including, but not limited to any proposal(s), purchase order(s), and/or invoice(s) are hereby annulled and superseded, except to the extent that any such communications and representations are specifically incorporated in or referred to in this Agreement. This Agreement may be amended, changed, modified or altered only by a written instrument executed by both parties.

### **ARTICLE 11 – MISCELLANEOUS PROVISIONS**

- 11.1 The article titles used herein are inserted solely for purposes of convenience, do not form a part of this Agreement, and will not be construed to qualify, explain, or affect any provision of this Agreement.
- 11.2 This Agreement is binding upon the parties and their heirs, executors, administrators, successors, and assigns.
- 11.3 This Agreement inures to the benefit of and is binding upon the parties hereto and their respective permitted successors and assigns; provided however, that this Agreement will not bind either party until executed by a duly authorized representative of each party.
- 11.4 No delay or omission in the exercise of any right under this Agreement will impair any such right or will be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. If any of the terms and conditions are breached and thereafter waived, such waiver will be limited to the particular breach so waived and will not be deemed to be a waiver of any other breach under this Agreement.
- 11.5 This Agreement may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

4.B.

Executed on this \_\_\_\_\_ of March, 2021

TOWN OF BROOKLINE

CONSULTANT

Board of Selectmen

Vanasse Hangen Brustlin, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## APPENDIX A

**VANASSE HANGEN BRUSTLIN, INC**  
**SCOPE OF SERVICES – DEDICATED BUS LANE EVALUATION**  
**AMENDMENT 1**  
**BROOKLINE, MA**

**DESCRIPTION OF SERVICES**

Vanasse Hangen Brustlin, Inc. (VHB) will provide additional transportation planning and engineering services to support proposed bus priority improvements in the Gateway East district in Brookline, Massachusetts. A TIP Project (Project 605110) is currently under construction within the study area and includes improvements to regional connections for bicyclists and pedestrians. Based on discussions with the Town of Brookline and MBTA, there is a desire to improve transit travel times through the corridor. The conceptual improvements for transit require evaluation in order to determine feasibility and applicability; as well as identify any construction elements (such as catch basins) that have been recently installed and would need to be removed/reset.

The following amendment to VHB's original scope of services, dated 8/5/2020, has been developed based on direction received from the client.

**1.0 TRANSPORTATION ANALYSIS      \$9,500**

The original analysis provided by VHB reviewed three concepts to provide dedicated bus lanes along Route 9 in the area known as Gateway East. From that analysis, the Town and MBTA officials identified a modified "concept 1" as the preferred alternative. Under this amendment, VHB will expand the analysis of the Route 9 corridor. Specifically, VHB will update the results of the previous morning and evening peak hour analysis developed through Synchro (Gateway East Build Conditions with and without the dedicated bus lane) in SIMTraffic. VHB will also prepare additional morning and evening peak hour SIMTraffic analyses (based upon the previously developed synchro model), updating the traffic volumes to reflect more recent Streetlight volume data provided by the MBTA. VHB will rely on the accuracy and completeness of the data as provided and will coordinate any concerns about the validity of the data with the MBTA and the Town of Brookline. It is assumed the analysis will be limited to the extents of the Gateway East project area which includes Route 9 at High/Washington Street, Route 9 at Pearl/Walnut Street, and Route 9 at Brookline Avenue. VHB will provide a technical memorandum summarizing the results of the additional analysis, compare the Gateway East Build condition to the 2021 condition, and provide supporting slides/graphics to support further public outreach.

**2.0 PROJECT/PUBLIC MEETINGS      \$5,000**

As requested by the Client, VHB will be available to attend up to six (6) Project meetings with the Client and Client's representatives, public agencies, and at public hearings or other public meetings. Four of these meetings include 2 MASCO meetings and 2 public meetings held between 12/23/20 and 1/25/21. The other two meetings will be attended at the direction of the client, at this time anticipated to be one meeting with town staff and one meeting with MassDOT. Services include coordination, preparation, and supporting graphics (when required). Meetings are anticipated to be virtual. Should additional

## 4.B.

coordination be required at a cost beyond that budgeted, an amendment to this agreement will be required.

### **SERVICES NOT INCLUDED**

The Scope of Services for this proposal is inclusive only of those tasks herein specified. Should any other work be required, VHB will prepare an appropriate proposal or amendment, at the Client's request, that contains the scope of services, fee, and schedule required to complete the additional work items. Modifications to the construction plans, new/revised traffic volume forecasts, VISSIM simulation, and additional field survey are specifically excluded at this time.

### **SCHEDULE**

VHB will execute the work under this amendment following the Town's meeting schedule. VHB will begin performance of the above services immediately on the date written authorization to proceed is received.

### **COMPENSATION**

VHB will perform the Scope of Services contained in this agreement on a time and expense basis at VHB's hourly billing rates in effect at the time our services are provided. The estimated not to exceed limit of VHB's labor for this Scope of Services is \$14,500.

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“**MOU**”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the MASSACHUSETTS BAY TRANSPORTATION AUTHORITY, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts, having offices at 10 Park Plaza, Boston, MA 02116 (“**MBTA**”), and the TOWN OF BROOKLINE, a municipal corporation within the Commonwealth of Massachusetts, having its principal office at Brookline Town Hall, 333 Washington St, Brookline, Massachusetts 02445 (“**Town**”). MBTA and Town are sometimes collectively referred to herein as the “**Parties**” and individually as the “**Party**.”

### RECITALS

**WHEREAS**, MBTA bus services are provided to Town on Washington Street between Station St and River Rd (“Bus Route”); and

**WHEREAS**, a traffic and bus lane analysis along the Bus Route is desired; and

**WHEREAS**, Town wishes to engage the services of Vanasse Hangen Brustlin, Inc. (“VHB”) to conduct such analysis; and

**WHEREAS**, Town and MBTA wish to jointly facilitate the analysis as set forth in this MOU.

**NOW THEREFORE**, in consideration of the premises herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

- 1. Responsibilities and Funding.** The responsibilities and funding obligations of both Town and MBTA for this project are as follows:

<b>WASHINGTON ST BETWEEN STATION ST AND RIVER RD IN THE TOWN OF BROOKLINE MATRIX</b>			
<b>Item</b>		<b>MBTA</b>	<b>TOWN</b>
1	Retain the services of VHB to perform a traffic and bus lane analysis that considers both westbound and eastbound bus lanes on the Bus Route and evaluates the addition of bus lanes in both directions, as well as a lane reduction on eastbound Boylston St approaching Washington St (“Project”)		X
2	Reimburse the Town for consulting fees directly related to traffic analysis performed by VHB: <ul style="list-style-type: none"> <li>- \$26,500.00 related to adding bus lanes in both directions on Washington St between Station St and River Rd (“Gateway East”); and,</li> <li>- \$14,500.00 related to a required MassDOT analysis of traffic changes on eastbound Boylston St approaching Washington St.</li> </ul>	X	

## 4.B.

	Based on these items, the total reimbursable amount in this agreement is not to exceed \$41,000.00.		
3	Review and advise VHB on incorporating bus priority into the Project. Review and advise VHB on traffic analysis for the Project area.	X	
4	Share VHB analysis and findings with MBTA to identify opportunities to implement bus priority as part of the MBTA Route 66, 65, 60 Gateway East Project.		X

MBTA will reimburse Town for the actual costs incurred by Town that are directly related to VHB's services on the Project as described in box 2 of the above matrix, within forty-five (45) days of MBTA's receipt of an accurate invoice for such costs from Town.

2. **Cooperation - Further Actions.** The Parties agree to cooperate and collaborate in good faith on all aspects of this MOU. Each of the Parties agrees that it shall hereafter execute and deliver such further instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this MOU and as are consistent with the terms hereof.
3. **Transportation Operations.** Notwithstanding anything to the contrary contained in this MOU, Town shall not interfere with the transportation operations of MBTA or any contractor of MBTA.
4. **Indemnification.** To the extent allowed by law, Town shall indemnify, defend and save harmless MBTA from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' expenses and fees), causes of action, suits, claims, demands or judgments of any nature whatsoever that may be imposed upon or incurred by or asserted against MBTA in connection with Town's activities under this MOU except to the extent arising from the gross negligence or willful misconduct of MBTA or its agents or employees.
5. **Limitation on Damages.** Notwithstanding anything to the contrary contained in this MOU, in no event shall either Party be liable to the other for indirect, special, consequential or punitive damages of any nature or for any reason whatsoever.
6. **Town Insurance.** During the term of this Agreement, Town shall continually maintain, with insurance carriers licensed to do business in the Commonwealth of Massachusetts, the following insurance:
  - a. Commercial General Liability Insurance

Commercial General Liability insurance for personal injury, bodily injury and property damage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million



## 4.B.

Dollars (\$3,000,000.00) in the aggregate. Such insurance shall be written on an occurrence basis (as opposed to a claims made basis). Coverage shall be equivalent to ISO Form CG 01 01 12 07. Coverage shall be provided on a first dollar basis without a deductible.

### b. Workers' Compensation Insurance

Coverage A Workers' Compensation: Statutory as required by Massachusetts law.

Coverage B Employer's Liability: (i) bodily injury by accident Five Hundred Thousand Dollars (\$500,000.00) each accident, (ii) bodily injury by disease Five Hundred Thousand Dollars (\$500,000.00) each employee and (iii) bodily injury by disease Five Hundred Thousand Dollars (\$500,000.00) policy limit.

### c. Automobile Liability Insurance

Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000.00) covering all owned, non-owned, hired, rented or leased vehicles of City and its subcontractors and consultants that are used in the activities permitted hereunder.

### d. Umbrella

Umbrella insurance with limits at least equal to Ten Million Dollars (\$10,000,000.00) per occurrence and Ten Million Dollars (\$10,000,000.00) in the aggregate. Self-insured retention shall not exceed Ten Thousand Dollars (\$10,000.00). Coverage shall be equivalent or broader than the coverage afforded on the underlying Commercial General Liability, Automobile Liability and Employer's Liability grant within the Workers' Compensation policy.

All policies shall have a minimum AM Best Rating of A-IX and MBTA shall be named as an additional insured on all policies except for Workers' Compensation. All policies shall contain a waiver of subrogation in favor of MBTA and the Workers' Compensation policy shall be specifically endorsed to provide such waiver.

Town shall provide proof of the foregoing coverage upon the request of MBTA. Said proof of insurance may be in the form of a self-insurance letter if the Town chooses to self-insure.

Prime contractors and consultants engaged by Town to perform activities under this MOU shall obtain the above minimum insurance coverages and shall name MBTA as an additional insured thereunder on all policies except for Workers' Compensation. All such contractor and consultant policies shall contain a waiver of subrogation in favor of MBTA and the Workers' Compensation policy shall be specifically endorsed to provide such waiver. The contractor and consultant policies shall be primary and noncontributory and the contractor's and consultant's Commercial General Liability and Umbrella policies shall sit in excess of Town's Commercial General Liability and Umbrella policies required under this MOU.

7. **Term.** This MOU shall become effective as of the date it is fully executed by Town and MBTA and shall remain in full force and effect until all activities contemplated by the Parties hereunder have been completed or the Parties have otherwise agreed in writing. Either party shall have the right to terminate

## 4.B.

this MOU upon thirty (30) days' written notice to the other party, but any reimbursement obligation incurred by the MBTA under this MOU for VHB's Project work performed prior to the submission of notice of termination under this section shall still be paid to the Town by the MBTA upon MBTA's receipt of an invoice as provided in Section 1.

8. **Consent.** Where, pursuant to this MOU, the consent or approval of one Party shall be required, requested or appropriate, such Party agrees that its consent or approval shall not be unreasonably withheld, delayed or conditioned except as expressly provided otherwise in this MOU.
9. **Authority.** The individuals executing this MOU represent that they are empowered and duly authorized to so execute this MOU on behalf of the Parties they represent.
10. **Press Releases.** If either Party wishes to issue a press release regarding this MOU, the form and content of such release shall be approved in advance by both Town and MBTA.
11. **Governing Law.** This MOU and the rights and obligations of the Parties hereunder shall in all respects be governed by and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts without regard to its choice of law rules.
12. **Notice.** Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified or registered mail, postage prepaid, return receipt requested, or (c) by a commercial overnight courier that guarantees next day delivery and provides a receipt. Such notices shall be addressed as follows:

If to MBTA:

Massachusetts Bay Transportation Authority

General Manager's Office

10 Park Plaza, Suite 4510

Boston, MA 02116

Attention: Deputy General Manager

With a copy to:

Massachusetts Bay Transportation Authority

Office of the General Counsel

10 Park Plaza, Suite 3510

## 4.B.

Boston, MA 02116

Attention: General Counsel

If to Town:

Town of Brookline

Transportation Division

333 Washington Street

Brookline, MA, 02445

Attention: Todd Kirrane

With a copy to:

Town of Brookline

Office of Town Counsel

333 Washington Street

Brookline, MA 02445

or to such other address as either Party may from time to time specify in writing to the other Party.  
Any notice shall be effective only upon delivery.

- 13. Severability.** Any provisions of law that invalidate, or otherwise are inconsistent with, the terms of this MOU, or that would cause one or both of the Parties to be in violation of that law, shall be deemed to have superseded the terms of this MOU. Notwithstanding such invalidity or illegality, the remaining terms and provisions of this MOU shall remain in full force and effect in the same manner as if the invalid or illegal provision had not been contained herein.
- 14. Counterparts.** This MOU may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon, provided such signature page is attached to any other counterpart identical thereto.

## 4.B.

**15. Successors and Assigns.** This MOU shall be binding on and inure to the benefit of the Parties hereto and their permitted successors and assigns. This MOU may not be assigned without the prior written consent of MBTA and Town.

**16. Entire Agreement.** This MOU represents the entire agreement between the Parties regarding the subject matter hereof, superseding any prior oral or written agreements or understandings regarding the same.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

SIGNATURE PAGE FOLLOWS

4.B.

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum of Understanding as of the day and year first above written.

**MASSACHUSETTS BAY  
TRANSPORTATION AUTHORITY**

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**TOWN OF BROOKLINE**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Brookline Select Board**



**TOWN OF BROOKLINE**  
*Massachusetts*  
**DEPARTMENT OF PUBLIC WORKS**

*Erin Chute Gallentine*  
 Commissioner

## **Interoffice Memorandum**

---

To: The Select Board

From: Erin Chute Gallentine, Commissioner of Public Works  
 Todd M. Kirrane, Transportation Administrator

Date: March 3, 2021

Re: Approval of Traffic Signal Maintenance Agreement with MassDOT and  
 Chestnut Hill Investments, LLC

Cc: Mel Kleckner, Town Administrator

Recommended for approval and prepared for your signatures, please find **Agreement between the Massachusetts Department of Transportation and Chestnut Hill Investments, LLC and the Town of Brookline relative to the required relocation of the traffic signal control box at the intersection of Boylston Street and Hammond Street in Chestnut Hill.** The relocation is required as part of the approved changes to Boylston Street in relation to the 40b project at 1180 Boylston Street. This is a MassDOT owned signal, and MassDOT is requiring the developer to enter in a traffic signal maintenance agreement. Ownership of the emergency preemption system at this location rests with Brookline, and the municipal owned signal at Hammond Street and Heath Street is coordinated with this signal. For these two reasons, MassDOT is requiring that the Town of Brookline be included in this maintenance agreement. The emergency preemption system is an important part of our traffic signal systems throughout Town as it allows our Fire, Police, and EMS to pass through the intersection more efficiently when responding to emergencies and the maintenance of this system is in the best interest of public safety within the Town.

AGREEMENT  
BETWEEN THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION  
AND CHESTNUT HILL INVESTMENTS, LLC  
AND THE TOWN OF BROOKLINE

AGREEMENT NO. \_\_\_\_\_  
(to be completed by MassDOT)

AGREEMENT, made this \_\_\_\_ day of \_\_\_\_, 2021 by and between the Massachusetts Department of Transportation – Highway Division, hereinafter called “MassDOT,” and Chestnut Hill Investments, LLC, hereinafter called “the Developer” and the Town of Brookline hereinafter called “The Town.”

WHEREAS, the Developer desires to remove the existing Traffic Signal Control Cabinet located at the southeast corner of the intersection of Boylston Street (Route 9) and Hammond Street, install a new Traffic Signal Control Cabinet at the northeast corner of the intersection, new electric service, and relocate the existing local controller, master controller, video detection and preemption equipment from the existing cabinet, as shown on:

MassDOT’s Traffic Control Signal Regulation No. \_\_\_\_\_  
(to be completed by MassDOT)

Dated: \_\_\_\_\_  
(to be completed by MassDOT)

In the Municipality of Brookline, County of Norfolk, in said Commonwealth as shown on a set of plans consisting of 11 sheets dated December 2020 entitled:

TRANSPORTATION IMPROVEMENT PROJECT  
SITE ACCESS DRIVEWAYS AT 1180 BOYLSTON STREET (ROUTE 9)  
IN THE TOWN OF BROOKLINE  
NORFOLK COUNTY  
THE COMMONWEALTH OF MASSACHUSETTS

prepared by Vanasse and Associates, Inc. of 35 New England Business Center Drive, Suite 140, Andover, MA, said plans and regulation are attached hereto and made a part thereof; and

Said plans being subject to review and approval by MassDOT before installation, said plans and regulation are made a part thereof; and in accordance with:

Highway Access Permit No.:

\_\_\_\_\_  
(to be completed by MassDOT)

Dated:

\_\_\_\_\_  
(to be completed by MassDOT)

Issued by District 6 to perform work on a State Highway and made part of this Agreement; and

WHEREAS, the parties hereto have reached an agreement as to the apportionment of work to be performed, the expense of carrying out this work, and the ownership and future maintenance thereof;

NOW THEREFORE, in consideration thereof, MassDOT and the Developer and the Town hereby agree, each with the other as follows:

DIVISION OF WORK

The Developer will furnish through its own contractor, all necessary, labor, materials, equipment and other services necessary for the removal of the existing Traffic Signal Control Cabinet and installation of the new Traffic Signal Control Cabinet as indicated above and as shown on the attached plan(s) and regulation(s).

The Developer agrees that all work done under this Agreement will be in accordance with the *Standard Specifications for Highways and Bridges* issued by the Commonwealth of Massachusetts, Massachusetts Highway Department, 2020 Edition, as amended, and the 2009 *Manual on Uniform Traffic Control Devices* and amendments as adopted by MassDOT.

The Developer agrees to require its Contractor to provide and cause to be maintained Public Liability Insurance and Property Damage Liability Insurance, and also, Contractor's Protective Public Liability and Property Damage Liability Insurance on behalf of MassDOT and, in



#### 4.C.

conformance with Section 7.05B of the hereinbefore defined *Standard Specifications for Highways and Bridges* and to furnish such evidence to MassDOT.

The Developer agrees to require its Contractor to provide a Performance and Payment Bond on behalf of MassDOT in conformance with Section 3.04 of the hereinbefore defined *Standard Specifications for Highways and Bridges*. The performance and payment bond shall be for the full amount of work within the State Highway Layout.

The Developer may solicit bids and award a contract prior to the completion of the MassDOT review process with the understanding that the Developer shall be responsible for any and all adjustments to the contract documents and/or change orders that are made as a result of the MassDOT review comments.

The Developer agrees that work will not commence without written permission from the District Highway Director of MassDOT, District 6. Prior to the commencement of any work, a pre-construction conference may be required by MassDOT. If required, it shall be held at MassDOT's Highway Division District 6 Administrative Office.

All Contractors and sub-contractors working on this project must be pre-qualified by MassDOT in the area of work that they are performing. All traffic signal equipment and components utilized and installed on this project shall be included on the MassDOT Qualified Traffic Control Equipment List.

The Developer, as its sole cost and expense, will furnish an engineer for proper inspection services necessary during the prosecution of work, and in turn, MassDOT will make periodic inspections for compliance with MassDOT standards.

Upon completion of the work, the Developer or its Engineer, will be responsible for the final inspection, certification of compliance with the specifications, and as-built drawings. Construction of new traffic signals or modifications to existing traffic signals or signal systems shall comply with MassDOT SOP No. HMD-60-03-3-00, issued on 9/9/2020.

The Developer shall complete all work covered by this agreement within one year of the date thereof unless an authorized time extension is granted by MassDOT.

#### DIVISION OF EXPENSE

The entire cost of said Traffic Signal Control Cabinet improvements, as hereinbefore stated as shown on said plans and regulation will be borne by Developer.

#### OWNERSHIP AND FUTURE MAINTENANCE

Upon completion of said Traffic Signal Control Cabinet improvements, to the satisfaction of MassDOT, title to said traffic control signals and appurtenances shall vest with MassDOT, and

#### 4.C.

MassDOT shall have the obligation and authority to operate and maintain said traffic control signals and appurtenances as installed.

All future maintenance and power costs for the traffic control signals and appurtenances (except for emergency pre-emption) shall reside with MassDOT.

Ownership of the emergency pre-emption systems installed at the intersections of:

LOCATION NO. 1 - MA9 (Boylston Street) at Hammond Street;

LOCATION NO. 2 - MA9 (Boylston Street) at Tully Street;

LOCATION NO. 3 - Hammond Street at Heath Street;

in Brookline shall vest with the Town and shall thereafter have the obligation and authority to operate and maintain the emergency pre-emption system, as installed. The Town agrees to contact the District 6 Traffic Operations Engineer at least one business day in advance of any maintenance operation that is to be performed to the emergency pre-emption system.

Title to the traffic control signals at the intersection of:

LOCATION NO. 3 - Hammond Street at Heath Street;

in Brookline shall rest with the Town.

The aforementioned traffic signals shall be incorporated into and operate as a Boylston Street time-of-day coordination system with the MassDOT traffic control signals on MA-9 (Boylston Street) in Brookline as deemed necessary as of the date of this agreement for the coordinated flow of traffic.

Upon completion of the installation of said traffic signal controls to the satisfaction of MassDOT, title to the Boylston Street time-of-day coordination system shall vest with MassDOT and MassDOT shall thereafter maintain the coordination system at the municipally-owned traffic signals. For the purpose of this agreement the Boylston Street time-of-day coordination system shall include: the on-street master controller, the local traffic signal controllers (timing settings only), cabinet, communication/interconnect system including cable and terminals, and all other appurtenances, which will allow the system to operate in coordination as shown in the contract documents. The on-street master controller shall be installed in a traffic signal cabinet at a state highway location.

The Town shall maintain all other equipment, wiring, and operation of the municipally-owned traffic signals including, but not limited to: signal structures and foundations, conduit, wiring, vehicle and pedestrian indications, vehicle detection system, pedestrian detectors, controller cabinet, malfunction management unit, load switches, flash transfer relays, bus interface units, and other cabinet components.

#### 4.C.

The Town and/or their duly authorized representative shall have the authority to monitor the operation of the coordination system; however, any modifications to the Town owned traffic signals included in the Boylston Street time-of-day traffic control signal system that will require modifications to the operation of any of the MassDOT-owned locations, or the addition of other locations to the system as described herein, shall not be made without prior written authorization from MassDOT. The Town shall request a modification to the system operation from MassDOT, who will review and comment on the Town request.

Timing changes to Town-owned intersections, if required, shall be provided to MassDOT for review to assess possible changes required to coordinate MassDOT-owned intersection operations prior to reprogramming the respective intersection controllers. If requested by MassDOT, the Town and/or their duly authorized representative shall provide a Technical Memorandum or report that explains the justification of the proposed changes. Proposed modifications to the system operation are subject to a review period not to exceed ten (10) business days from receipt of proposed timing changes and supporting traffic data and analyses. If no response is received at the end of the 10 business day review period, it shall be assumed that the timing changes are acceptable and may be implemented.

4.C.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CHESTNUT HILL INVESTMNETS, LLC

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

CERTIFICATE OF SIGNATORY

This will attest that the above-named individual is duly authorized and empowered to execute and deliver this Agreement on behalf of the Developer.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



TOWN OF BROOKLINE

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

CERTIFICATE OF SIGNATORY

This will attest that the above-named individual is duly authorized and empowered to execute and deliver this Agreement on behalf of the Town.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



MASSACHUSETTS DEPARTMENT OF TRANSPORTATION – HIGHWAY DIVISION

\_\_\_\_\_  
Assistant Administrator for Traffic & Safety

4.D.



# TOWN of BROOKLINE

*Massachusetts*

## BUILDING DEPARTMENT

Daniel Bennett  
Building Commissioner

TO: Selectboard/ School Committee

FROM: Ray Masak, PE Project Manager

SUBJECT: Multiple Building Roof Replacement Project  
Heath, Pierce Primary, New Lincoln, Municipal Service Center  
MDM Contract (FY 21)

DATE: February 3, 2021

On the Calendar, the Building Department has submitted a request for Contract Approval for the subject project in the amount of \$1,775,000.

The subject project was approved as part of overall CIP for the Town's roof replacement program and was designed by Russo Barr Associates. Construction will commence upon contract execution and is expected to be completed by the end of August 2021.

Bids were received on January 28, 2021 and a total of 8 bids were submitted. Russo Barr Associates reviewed the bids and determined that MDM Engineering is the lowest and responsible bidder. Based upon the engineer's recommendation and the Town's experience with this contractor, we are requesting award of contract to MDM Engineering.

The Building Department is available to answer any questions you may have. Thank you for your consideration.



**Russo Barr Associates, Inc.**  
55 Sixth Road, Suite 6  
Woburn, MA 01801  
781-273-1537 tel  
781-273-1695 fax

February 3, 2021

Mr. Raymond Masak, PE  
Project Manager  
Brookline Building Department  
Brookline Town Hall, 3<sup>rd</sup> Floor  
333 Washington Street  
Brookline, MA 02445

Re: **General Bid Review**  
Five Building Roofing Project  
Brookline, Massachusetts  
RBA Project No. 2020030

Mr. Masak:

General Bids were received for the referenced project on January 28, 2021. Eight bids were received; M.D.M. Engineering Company, Inc. (MDM) submitted a low bid of \$1,775,000. MDM provided all documents required with their bid. MDM is DCAMM certified in Roofing.

We did consider the information submitted by MDM in their DCAMM Update Statement, as well as specific prior experience with MDM that this office has public sector roofing projects and our experience has been good.

We believe that MDM is qualified to perform work on this project; they do possess the skill and ability necessary for faithful performance of the work called for by the contract. Based on the above information, we believe that M.D.M. Engineering Company, Inc. has submitted the low, eligible and responsible bid for this project. We recommend that this project be awarded to M.D.M. Engineering Company, Inc.

We trust this information meets your needs at this time. Should you have any questions, please contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "A. Barr", is written over a light blue horizontal line.

Andrew N. Barr, P.E.  
Principal

<u>Bidder</u>	<u>Bid Price</u>	<u>Act Add</u>	<u>Non Collision</u>	<u>Bid Bond</u>	<u>Defect Evg.</u>	<u>Update Statement</u>
Titan	\$2,281,500	1,2	✓	✓	✓	✓
Reliable	2,469,500	1,2	✓	✓	✓	✓
NDM Eng	1,735,000	1,2	✓	✓	✓	✓
Rockwell	2,200,500	1,2	✓	✓	✓	✓
Cupeway	1,837,700	1,2	✓	✓	✓	✓
Greenwood	1,812,000	1,2	✓	✓	✓	✓
Gibson	1,912,000	1,2	✓	✓	✓	✓
Stanley	2,011,000	1,2	✓	✓	✓	✓

Estimate: 2,260,000

Bid Date: 1/28/2021

Bid Time: 2:00 PM

Bid: Roofs - Multiple Buildings



## Town Of Brookline

## Contract Coding Approval Form

Department: BuildingVendor Name: MPM Engineering CompanyVendor Number: \_\_\_\_\_ Amount of Contract \$ 1,775,000

Contract #: \_\_\_\_\_

## Purpose of Contact:

Description:
Replacement of Roofs - MSC Heath New Lincoln,
Prose Primary

## Coding:

Org #	Org Name *	Acct #	Acct Name	Amount
2594C190	600002			258244.19
2594C214	600002			1,516,755.81

\* For "K" or "C" accounts, please call it "CIP", preceded by your Dept (e.g., 4909K001 would be "DPW CIP").

Department Head: [Signature] Date 2-10-21Comptroller and Purchasing ApprovalsFunds Available / Codes Correct \_\_\_\_\_  
Comptroller [Signature]2/10/2021  
Date Approved by ComptrollerComplies with Appropriate Procurement Law  
(MGL ch 149, ch 30 30M, or ch 30B) \_\_\_\_\_  
Purchasing [Signature]2/10/21  
Date Approved by Purchasing



**TOWN of BROOKLINE**  
*Massachusetts*

**BUILDING DEPARTMENT**

Daniel Bennett  
Building Commissioner

February 3, 2021

Mr. Zbigniew Mroczka, President  
MDM Engineering Company, Inc.  
51 Sawmill Road  
Dudley, MA 01571

Re: Multiple Building Roof Replacement  
Brookline, MA

Dear Mr. Mroczka,

The Town of Brookline is pleased to forward a copy of the contract for the subject project electronically including an addendum. Please sign the attached contract on page 8 and return three copies with three copies of your bonds and insurance,. Further, please make sure your insurance is up to date and that it will not expire during the project duration. Once the contract is executed, the Town will schedule the preconstruction conference.

On behalf of the Building Commission, we look forward to working with MDM Engineering again and making this one of many successful projects for the Town of Brookline.

Sincerely,  
Town of Brookline

Raymond D. Masak, PE (617-264-6449)  
Project Manager

ADDENDUM TO Multiple Roof Replacement

Article 4.4 of the Town of Brookline General By-Laws

By signing below, CONTRACTOR hereby agrees to comply with the provisions of Article 4.4 of the Town's General By-laws, *Fair Employment Practices with Regard to Contracts*, a copy of which is incorporated herein by reference, with respect to the foregoing Contract.

MDM Engineering Company Inc  
Contractor

Article 4.5 of the Town of Brookline General By-Laws

In compliance with Article 4.5 of the Town's General By-laws, CONTRACTOR hereby certifies as follows: I shall not discriminate against any individual because of the race, color, religious creed, national origin, sex, gender identity or gender expression, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, age or ancestry of any Individual in fulfilling the terms of the foregoing attached contract.

Signed under the pains of penalties of perjury, on this 26th day of February, 2021.

[Signature]  
Signature of Contractor





AIA Document A101

# Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a

STIPULATED SUM

1987 EDITION

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH  
AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.

The 1987 Edition of AIA Document A201, General Conditions of the Contract for Construction, is adopted  
in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

## AGREEMENT

made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year of \_\_\_\_\_

**BETWEEN** the Owner Town of Brookline represented by the Brookline Building Commission  
(Name and address) 333 Washington Street  
Brookline, MA 02445

and the Contractor: MDM Engineering Co., Inc.  
(Name and address) 51 Sawmill Road  
Dudley, MA 01571

The Project is: Multiple Building Roof Replacement Project  
(Name and location) Brookline, MA

The Architect is: Russo Barr Associates  
(Name and address) 55 Sixth Road, Suite 6  
Woburn, MA 01801

The Owner and Contractor agree as set forth below.

Copyright 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, ©1987 by The American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006. Reproduction of the material herein or substantial quotation of its provisions without written permission of the AIA violates the copyright laws of the United States and will be subject to legal prosecution.

**ARTICLE 1****THE CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

**ARTICLE 2****THE WORK OF THIS CONTRACT**

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

The Contractor shall perform the Work required by the Contract Documents for the Multiple Building Roof Replacement. The Contractor shall provide all materials, labor, equipment, tools, machinery, transportation, and services necessary for, and reasonably incidental to, the performance of the Work.

**ARTICLE 3****DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

**3.1** The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

The Work to be performed under the Contract shall commence upon issuance of a 'Notice to Proceed', anticipated to be issued on or about February, 2021. Construction at The Municipal Garage shall commence promptly after the notice to proceed and construction work at the school buildings shall start promptly after the last day of school currently scheduled for June 21, 2021.

**3.2** The Contractor shall achieve Substantial Completion of the entire Work not later than

*(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)*

The Work of the Contract shall be performed according to the Contract Documents including restrictions specified under Section 01 1100 – SUMMARY OF WORK. The Work to be performed under this Contract shall be substantially completed August 27, 2021.

, subject to adjustments of this Contract Time as provided in the Contract Documents.

*(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)*

**Liquidated Damages:** The General Contractor agrees to pay the Owner for any delay in the Work, the sum of one thousand dollars (\$300.00) per day for every calendar day beyond the above-established date; said amounts to be deemed payment for liquidated and ascertained damages for such delay.



ARTICLE 4  
**CONTRACT SUM**

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of Dollars  
(1,775,000 One million seven hundred seventy five thousand ), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

*(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)*

4.3 Unit prices, if any, are as follows:

The Unit Prices are as described in Section 00 3000 Form for General Bid

## ARTICLE 5 PROGRESS PAYMENTS

5.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment Issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

5.3 Provided an Application for Payment is received by the Architect not later than the \_\_\_\_\_ day of a month, the Owner shall make payment to the Contractor not later than the \_\_\_\_\_ day of the \_\_\_\_\_ month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than \_\_\_\_\_ days after the Architect receives the Application for Payment.

5.4 Each Application for Payment shall be based upon the Schedule of Values submitted by the Contractor in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This Schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.6 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

5.6.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the Schedule of Values, less retainage of \_\_\_\_\_ percent ( \_\_\_\_\_ %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

5.6.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of \_\_\_\_\_ percent ( \_\_\_\_\_ %);

5.6.3 Subtract the aggregate of previous payments made by the Owner; and

5.6.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

5.7.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work and unsettled claims; and

5.7.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.8 Reduction or limitation of retainage, if any, shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraphs 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

Delete Paragraphs 5.2 through 5.8 in their entirety, and insert the following:

The provisions of this Article are subject to the provisions of the General Laws of the Commonwealth of Massachusetts, Chapter 30, as amended.



## ARTICLE 6 FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 60 days after the issuance of the Architect's final Certificate for Payment, or as follows:

The provisions will be made in accordance with Chapter 30 of the General Laws of the Commonwealth of Massachusetts

## ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

*(Usury laws and requirements under the Federal Truth In Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

7.3 Other provisions: Refer to attached page

## ARTICLE 8 TERMINATION OR SUSPENSION

8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.



7.3 Other Provisions:

Contractor's Representations

- a. The Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and all location conditions and federal, state, and local laws, rules, ordinances, and regulations that in any manner may affect costs, progress, or performance of the Work.
- b. The Contractor has made, or has caused to be made, examinations, investigations, and test and studies of such reports, and related data in addition to those referred to in the paragraph above as the Contractor deems necessary for the performance of the Work at the Contract Price, within the Contract Time, and in accordance with other Terms and Conditions of the Contract Documents; and no additional examinations, tests, investigations, reports, and similar data are or will be required by the Contractor for such purposes.
- c. The Contractor has correlated the results of such observations, examinations, investigations, tests, reports, and data with the Terms and Conditions of the Contract Documents.
- d. The Contractor has given the Architect written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents, and the Written Resolution thereof by the Architect is acceptable to the Contractor.

Miscellaneous

- a. Terms used in this Contract where are defined in Article 1 of Document 00 7000-GENERAL CONDITIONS (AIA Document A201) shall have the meaning indicated in the General Conditions; other terms shall have the meanings given them in applicable publications and regulations.
- b. No assignment by a party hereto or any rights under or interest in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are the effect of this restriction may be limited (by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

**ARTICLE 9**  
**ENUMERATION OF CONTRACT DOCUMENTS**

**9.1** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

**9.1.1** The Agreement is this executed Standard Form of Agreement Between Owner and Contractor, AIA Document A101, 1987 Edition.

**9.1.2** The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, 1987 Edition.

**9.1.3** The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated , and are as follows:

Document	Title	Pages
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**9.1.4** The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:  
*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

Section	Title	Pages
---------	-------	-------

9.1.5 The Drawings are as follows, and are dated

unless a different date is shown below:

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

Number

Title

Date

9.1.6 The Addenda, if any, are as follows:

Number

Date

Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.



**9.1.7 Other documents, if any, forming part of the Contract Documents are as follows:**

*(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisement or invitation to bid, instructions to bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

Delete Paragraphs 9.1.1 through 9.1.7 and insert the following:

The Contract Documents, which comprise the entire contract between the Owner and the Contractor, are attached to this Contract, made a part hereof, and consist of the following:

1. The Contract.
2. Contractor's Bid, including required submittals.
3. Bid, Performance, and Payment Bond.
4. General Conditions (herein stated and in AIA Document A201).
5. Modifications to General Conditions.
6. Supplementary Conditions.
7. Specifications bearing the title: Multiple Building Roof Replacement.
8. AIA Construction Documents, including but not limited to AIA Document A201, A310, A311, selected for use by the Town of Brookline, Massachusetts.
9. All Addenda issued prior to Bid Preparation.
10. Documentation submitted by Contractor during the Performance of the Contract.
11. Contract Drawings.
12. Town of Brookline Standard Signature Sheet, which will be provided separately as Page 9 of this Contract,

There are no Contract Documents other than those listed in this Article. The Contract Documents may only be altered, amended, or repealed by a Modification as defined in Section 1 of the General Conditions.

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER Refer to attached  
Signature Page

CONTRACTOR MDM Engineering Co., Inc. Inc.

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)

This Agreement entered into as of the day and year last written above

# APPROVAL OF OWNER

Selectboard

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Building Commission

*Janet B. Korman, Chair and*  
*per vote dated 2/9/21*

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Approved as to Form

School Committee

*Suzanne Foland, Chair*  
*School Committee vote 2-23-2021*

Town Counsel

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

# CERTIFICATION

I hereby certify in accordance with Mass. Gen. Laws ch. 44 paragraph 31 C that an appropriation in the amount of the Contract Sum has been made and is available for compensation to the Contractor for the work described in this agreement.

Town Comptroller



## PERFORMANCE BOND

 Bond#  
2309283

KNOW ALL BY THESE PRESENTS, that we, MDM Engineering, Inc., as Principal, and North American Specialty Insurance Company, as Surety, are held and firmly bound unto Town of Brookline Building Commission, Brookline Town Hall Building Department, 333 Washington Street Brookline, MA 02445, as Oblige, in the penal sum of One Million Seven Hundred Seventy Five Thousand and 00/100 Dollars (\$ 1,775,000.00) for the payment whereof said Principal and Surety bind themselves, jointly and severally, as provided herein.

WHEREAS, Principal has entered into a contract with Oblige dated February 25, 2021 for Roof Replacement at Multiple Municipal Buildings. Heath Elementary School, New Lincoln School, Pierce Primary, and the Municipal Garage. ("Contract"), which is incorporated herein by reference for the limited purpose of defining the scope of the Construction Work.

NOW, THEREFORE, the condition of this obligation is such that if Principal promptly and faithfully performs the Construction Work, then this obligation shall be null and void; otherwise to remain in full force and effect.

IT IS FURTHER PROVIDED, that:

1. The obligation of Surety under this bond ("Bond") shall arise only when all the following conditions have been met:
  - (A) The Oblige has fulfilled its obligations under the Contract; and
  - (B) Principal is, and Oblige has declared Principal to be, in material default under the Contract for failing to perform the Construction Work ("Principal's Default"); and
  - (C) Oblige has terminated the Contract and notified the Surety in writing of Principal's Default and such termination.
2. When all the conditions in Section 1 are met, Surety shall have a reasonable period of time to investigate and elect at its sole discretion one of the following remedies:
  - (A) Notify Oblige that Surety elects to complete the performance of the Construction Work through contractor(s) retained by Surety and then commence such performance with reasonable promptness. In this event, that portion of the Contract Balance as may be required to complete the Construction Work or remedy Principal's Default and to reimburse Surety for its expenditures shall be paid to Surety at the times and in the manner as said sums would have been payable under the Contract to Principal had there been no Principal's Default; or
  - (B) Notify Oblige that it elects to arrange for a contract between Oblige and a replacement contractor acceptable to Oblige, such acceptance not to be unreasonably withheld, guaranteed by both contract payment and performance bonds provided by the replacement contractor in the amount of the replacement contract. In this event, Surety shall pay Oblige that portion of the cost of the replacement contractor that is in excess of the Contract Balance. Such payment(s) may be made to Oblige in a lump sum (in the event of a lump sum contract) or periodically as incurred by Oblige; or
  - (C) Request Oblige to complete the Construction Work. In this event, Surety shall pay Oblige that portion of the reasonable cost to complete the Construction Work incurred by Oblige that is in excess of the Contract Balance; or

## 4.D.

- (D) Arrange to give assistance, financial or otherwise, to the Principal to assist the Principal with completing the Construction Work. This remedy shall be subject to Obligor's agreement, which shall not be unreasonably withheld. The Obligor shall pay the Contract Balance as directed by Surety. In the event Surety provides financial assistance, Surety, in its sole discretion, may upon written notice to Obligor cease providing such financial assistance at any time, in which event Surety shall immediately make a further election under this Section 2; or
  - (E) Notify the Obligor that Surety denies liability. Surety shall cite its reasons for the denial of liability; or
  - (F) After investigation, determine the amount for which Surety may be liable to the Obligor and, as soon as reasonably possible after the amount is determined, make payment to the Obligor.
- 3. After Obligor has provided Surety with written notice of Principal's Default, and before the commencement of work under Section 2, subparagraphs (A) or (B), Obligor may, pursuant to its Contract rights, mitigate the damages caused by the Principal's Default. If Obligor performs obligations under the Contract during this period, Obligor shall be entitled to deduct the Mitigation Costs from the Contract Balance. If the Contract Balance is exhausted, and Surety elects to proceed under Section 2, subparagraphs (A), (B), (C) or (D), Surety shall reimburse Obligor for the difference between the Contract Balance and the Mitigation Costs incurred and paid by Obligor.
  - 4. If Surety proceeds under Section 2, subparagraphs (A), (B), (C), (D) or (F), Surety may also advise in the notice of its remedy election to Obligor that the Obligor's claim is disputed as to liability and/or amount and Surety is proceeding under and asserting a reservation of all rights, remedies, claims, and defenses. In the event Surety prevails, in whole or in part, with respect to the dispute regarding liability and/or amount of Obligor's claim and Surety paid monies in excess of the funds paid by Obligor to Surety, then Surety shall be entitled to recover the excess from Obligor.
  - 5. Surety's aggregate liability under this Bond is limited to the penal sum of this Bond, regardless of whether the liability arises from the actions or inactions of Principal or Surety. The penal sum of this Bond shall be reduced by and to the extent of any and all monies paid by Surety under this Bond in excess of funds paid by Obligor to Surety. If Surety paid monies in excess of the penal sum of this Bond, then Surety shall be entitled to recover the excess monies from Obligor. The Surety waives notice of any change to the Contract.
  - 6. Definitions:
    - (A) The phrase "Contract Balance," means the total amount payable by Obligor to Principal under the Contract and any amendments thereto, less the amounts properly paid by Obligor under the Contract.
    - (B) The phrase "Mitigation Costs" means the cost actually incurred by Obligor in proper performance of the Construction Work. Such costs shall be at hours and rates not higher than those customarily incurred at the place of the Construction Work unless Surety provides its prior written consent.
    - (C) The phrase "Construction Work" means all labor and materials necessary to complete Principal's scope of work under the Contract
  - 7. Any suit or action by Obligor under this Bond must be instituted within one (1) year from the earliest of the following dates: (A) the date of substantial completion of the Construction Work; (B) the date Principal ceased performing the Construction Work; or (C) the date of Principal's Default. If the limitation period set forth in this Bond is void or prohibited by law, then the minimum limitation period available to sureties as a defense in the jurisdiction of the suit or action shall apply and shall be deemed to have accrued and commenced to run on the earliest of the dates referenced in this Section 7 (A), (B) and (C). It shall be understood that in no event shall punch list, warranty, or maintenance work constitute Construction Work for the purpose of determining the limitation period for filing a suit or action under this Bond.



8. No prejudgment or pre-award interest may be recovered under this Bond. Post judgment interest shall be calculated from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment.
9. The Obligee is the sole beneficiary under this Bond. No right of action shall accrue on this Bond to or for the use of any person other than the Obligee. This Bond is not transferable without the express written consent of Surety, and no successor or assignee of Obligee shall have any rights under this Bond. Any suit or action under this Bond shall be instituted in a State or Federal court of competent jurisdiction in the location in which the Construction Work is situated.
10. Notwithstanding anything in this Bond or the Contract to the contrary, Surety shall have no liability to Obligee for: legal fees or costs; any form of consequential, indirect, punitive, or exemplary damages; or any liability of Principal for tortious acts, whether or not said liability is direct or imposed by the Subcontract or otherwise. Nor shall this Bond serve as or be a substitute for or supplemental to any insurance coverage required under the Subcontract.
11. Notice or demand given to Surety pursuant to this Bond shall be in writing and delivered to the following mailing address or email address:

Swiss Re Corporate Solutions – Surety Claims  
 1450 American Lane, Suite 1100  
 Schaumburg, IL 60173

SuretyClaimsNA\_CorporateSolutions@swissre.com

Signed this 25th day of February, 2021.

MDM Engineering, Inc.

Principal

Name: Zbigniew Damian Mroczka

Title: President

North American Specialty Insurance Company

Surety

by

Joseph M. Phillips,

Attorney-in-Fact





North American Specialty Insurance Company  
 Washington International Insurance Company  
 Westport Insurance Corporation  
 1450 American Lane, Suite 1100  
 Schaumburg, IL 60173

## LABOR AND MATERIAL PAYMENT BOND

Bond#  
2309283

KNOW ALL BY THESE PRESENTS, that we, MDM Engineering, Inc., as Principal, and North American Specialty Insurance Company, as Surety, are held and firmly bound unto Town of Brookline Building Commission, Brookline Town Hall Building Department, 333 Washington Street Brookline, MA 02445, as Oblige, in the penal sum of One Million Seven Hundred Seventy Five Thousand and 00/100 Dollars (\$ 1,775,000.00) for the payment whereof said Principal and Surety bind themselves, jointly and severally, as provided herein.

WHEREAS, Principal has entered into a contract with Oblige dated February 25, 2021 for Roof Replacement at Multiple Municipal Buildings. Heath Elementary School, New Lincoln School, Pierce Primary, and the Municipal Garage. ("Contract"), which is incorporated herein by reference for the limited purpose of defining the scope of the Construction Work.

NOW, THEREFORE, the condition of this obligation is such that if Principal promptly makes payment of all sums due to Claimants for labor, materials or rental equipment actually used, consumed or incorporated in the performance of the Construction Work, then Surety and Principal shall have no obligation under this Bond ("Bond").

IT IS FURTHER PROVIDED, that:

1. The obligation of Surety under this Bond shall arise only when all the following conditions have been met:
  - (A) Claimant has, within ninety (90) days of Claimant's last furnishing of labor, materials, or rental equipment in the performance of the Construction Work, provided written notice of non-payment to Principal, Surety (at the address identified on this Bond) and Oblige stating with substantial accuracy the amount claimed and the name of the party to whom the labor, materials, or rental equipment was furnished; and
  - (B) Claimant has furnished a Proof of Claim to Surety along with the following:
    - (i) A written statement including the name of Claimant, the amount of the claim, the name of the party to whom the labor, materials, or rental equipment was furnished, a brief description of the labor, materials, or rental equipment furnished, and the date on which Claimant last furnished such labor, materials, or rental equipment for use in the performance of the Construction Work; and
    - (ii) A copy of the agreement, contract or purchase order pursuant to which Claimant furnished labor, materials, or rental equipment for use in the performance of the Construction Work; and
    - (iii) A statement of account showing the total amount earned by Claimant, the amount of previous payments received by Claimant, and the total amount due and unpaid to Claimant; and
    - (iv) Copies of all unpaid invoices for which Claimant is making the claim.
2. No suit or action shall be commenced by Claimant under this Bond after the expiration of one (1) year from the date on which Claimant last furnished labor, materials, or rental equipment for use in the performance of the Construction Work. If the limitation period set forth in this Bond is void or prohibited by law, then the minimum limitation period available to sureties as a defense in the jurisdiction of the suit or action shall apply and shall be deemed to have accrued and commenced to run on the date on which Claimant last furnished the labor, material, or rental equipment for which Claimant is making the claim. For purposes of determining the limitation period, performance of the Construction Work shall not include punch list, warranty, or maintenance work.
3. Notwithstanding anything in this Bond or the Contract to the contrary, Surety shall have no liability to Claimant for legal fees or costs or any form of consequential, indirect, punitive, or exemplary damages. No prejudgment or pre-award interest may be recovered under this Bond. Post judgment interest shall be calculated from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment.

## 4.D.

4. The aggregate liability of Surety under this Bond shall not exceed the penal sum of this Bond; and the penal sum of this Bond shall be reduced by and to the extent of all payments made by Surety under this Bond.
5. Any suit or action under this Bond shall be instituted in a State or Federal Court of competent jurisdiction in the location in which the Construction Work is situated. No right of action shall accrue on this Bond to or for the use of any individual or entity other than a Claimant. This Bond is not transferable.
6. Notice or demand given to Surety pursuant to this Bond shall be in writing and delivered to the following mailing address or email address:

Swiss Re Corporate Solutions – Surety Claims  
1450 American Lane, Suite 1100  
Schaumburg, IL 60173

SuretyClaimsNA\_CorporateSolutions@swissre.com

### **Definitions**

- (A) The words "Claimant" and "Claimants" mean one or more individuals or entities having a direct contract with Principal or with a subcontractor of Principal for labor, material, or rental equipment actually used, consumed or incorporated in the performance of the Construction Work.
- (B) The phrase "Construction Work" means all labor, materials, and rental equipment necessary to complete Principal's scope of work under the Contract.

Signed and sealed this 25th day of February A.D., 2021

IN THE PRESENCE OF:

MDM Engineering, Inc.

Principal

Name: Zbigniew Damian Mroczka

Title: President

North American Specialty Insurance Company

Surety

by

Joseph M. Phillips,

Attorney-in-Fact



## SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY  
WASHINGTON INTERNATIONAL INSURANCE COMPANY

## GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Overland Park, Kansas, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Overland Park, Kansas, each does hereby make, constitute and appoint:

JOSEPH PHILLIPS, MARIA GADZIALA, JOCELYN DOUGLAS, and NINA KUBLAN

## JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

FIFTY MILLION (\$50,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 9<sup>th</sup> of May, 2012:


"RESOLVED, that any two of the Presidents, any Managing Director, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By   
Steven P. Anderson, Senior Vice President of Washington International Insurance Company  
& Senior Vice President of North American Specialty Insurance Company



By   
Michael A. Ito, Senior Vice President of Washington International Insurance Company  
& Senior Vice President of North American Specialty Insurance Company

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 8TH day of FEBRUARY, 2018.

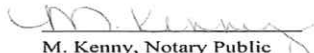
North American Specialty Insurance Company  
Washington International Insurance Company

State of Illinois  
County of Cook

ss:

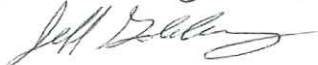
On this 8TH day of FEBRUARY, 2018, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Michael A. Ito, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



  
M. Kenny, Notary Public

I, Jeffrey Goldberg, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 25 day of February, 2021.

  
Jeffrey Goldberg, Vice President & Assistant Secretary of  
Washington International Insurance Company & North American Specialty Insurance Company









4.D.

MDMEN01

OP ID: EB

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/16/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  
Archambault Insurance Assoc.  
143 Providence St./ PO Box 153  
Putnam, CT 06260-0153

860-928-0811

CONTACT  
NAME:PHONE  
(A/C, No, Ext):

860-928-0811

FAX  
(A/C, No):

860-928-6462

E-MAIL  
ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: **Evanston Insurance Company**INSURER B: **Starstone National Ins. Co.**INSURER C: **PROGRESSIVE INSURANCE CO.**

16322

INSURER D:

INSURER E:

INSURER F:

INSURED  
MDM Engineering Company, Inc.  
c/o Zebigniew Mroczka  
PO Box 219  
Quinebaug, CT 06262

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR VVO	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	<input checked="" type="checkbox"/>		MKLV1PBC001062	06/16/2020	06/16/2021	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	OTHER:						
C	AUTOMOBILE LIABILITY						
	ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS			02851674-5	01/30/2021	01/30/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
B	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB	<input checked="" type="checkbox"/>					
	<input type="checkbox"/> CLAIMS-MADE			79700D208ALI	06/16/2020	06/16/2021	EACH OCCURRENCE \$ 5,000,000
	DED <input type="checkbox"/> RETENTION \$						AGGREGATE \$
							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/>	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Multiple building roof replacement and related work at Heath Elementary School (100 Eliot Street Chestnut Hill, MA 02467), New Lincoln School (19 Kennard Road Brookline, MA 02445), Pierce Primary (32 Pierce Street Brookline, MA 02445) and Municipal Garage (870 Hammond Street Chestnut Hill, MA 02467). The Town of Brookline is named Additional Insured-

## CERTIFICATE HOLDER

## CANCELLATION

Town of Brookline  
333 Washington Street  
Brookline, MA 02445

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03)

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TOWN of BROOKLINE  
*Massachusetts*

**FIRE DEPARTMENT**  
**HEADQUARTERS**  
**PUBLIC SAFETY BUILDING**

John F. Sullivan  
Chief of Department

350 Washington Street  
PO Box 470557  
Brookline MA 02447-0557  
Tel: 617-730-2272  
Fax: 617-730-2391  
[www.brooklinema.gov](http://www.brooklinema.gov)

March 9, 2021

To: Brookline Select Board  
From: John F. Sullivan, Fire Chief  
RE: Acceptance of grants

Select Board Members,

The Brookline Fire Department asks that the Select Board accept the following annual Fire Prevention/ Public Education grants offered and approved by the Commonwealth of Massachusetts, Executive Office of Public Safety to enhance our Community Risk Reduction (CRR) initiatives:

- \$7600.00 for Student Awareness of Fire Education (S.A.F.E.).
- \$3019.00 for Senior SAFE

Thank you for your consideration.

Sincerely,

John F. Sullivan, Fire Chief





OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
STATE HOUSE 0 BOSTON, MA 02133  
(617)725-4000

**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

February 5, 2021

Chief John F. Sullivan  
Brookline Fire Department  
350 Washington Street  
Brookline, MA 02447-0557

Dear Chief Sullivan:

Congratulations! We are pleased to inform you that the Brookline Fire Department has been awarded \$7,680.00 for Student Awareness of Fire Education (S.A.F.E.) and \$3,019.00 for Senior SAFE grants. We look forward to working with you and your community on this public fire and life safety initiative.

Additional correspondence, including all the necessary documents needed to execute this award will be provided by the Executive Office of Public Safety and Security, Department of Fire Services within the next two weeks.

Feel free to contact the Public Education Unit at (978) 567-3382 if you have any questions.

Sincerely,

Handwritten signature of Charles D. Baker in blue ink.

Governor Charles D. Baker

Handwritten signature of Karyn E. Polito in blue ink.

Lt. Governor Karyn E. Polito





CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LT. GOVERNOR

THOMAS A. TURCO, III  
SECRETARY

*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*  
*Department of Fire Services*

*P.O. Box 1025 ~ State Road*

*Stow, Massachusetts 01775*

*(978) 567~3100 Fax: (978) 567~3121*

*www.mass.gov/dfs*



PETER J. OSTROSKY  
STATE FIRE MARSHAL

February 12, 2021

Chief John F. Sullivan  
Brookline Fire Department  
350 Washington Street  
Brookline, MA 02447-0557

Dear Chief Sullivan:

I am pleased to inform you that your FY 2021 Student Awareness of Fire Education (S.A.F.E.) and Senior SAFE grant applications have been approved for funding. The Brookline Fire Department has been awarded \$7,680.00 for your S.A.F.E. grant and \$3,019.00 for Senior SAFE.

Be sure to alert your treasurer and to check with them to ensure receipt of the funds. We expect the funds to be electronically distributed within the next couple of weeks.

All grantees are required to submit the FY 2020 year-end report to DFS by January 31, 2021. If there are any unexpended funds, the grantee may apply for a one-time 6-month extension, which will be part of the year-end report form. At the close of the single 6-month extension, all unexpended funds must be returned to the Commonwealth. At this time, any prior year remaining funds must be returned to the Commonwealth.

Twenty-six years ago, the Administration advocated for the creation of the S.A.F.E. Program. Since that time average annual child fire deaths have been reduced by 78%. Seven years ago, the S.A.F.E. program was expanded to offer funds to local communities in support of senior fire prevention training. Seniors are the most vulnerable of populations at risk of fire related deaths. Senior SAFE is aimed at educating seniors on fire prevention, general home safety and how to be better prepared in the event of a fire. It is our hope that with this opportunity we can recreate the success with our older population that we have had with children.

I thank you for your commitment to the S.A.F.E. program and for your continuing efforts to promote fire prevention for all citizens. If you have any questions, please feel free to contact the Public Education Unit at (978) 567-3382 or the S.A.F.E. staff at (978) 567-3388.

Sincerely,

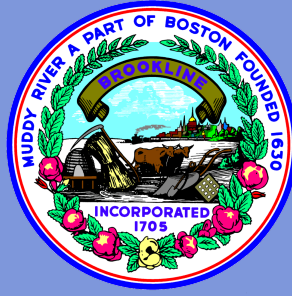
Peter J. Ostroskey  
State Fire Marshal

*Administrative Services • Division of Fire Safety*  
*Hazardous Materials Response • Massachusetts Firefighting Academy*



## Town of Brookline FY22 Program Budget

### Human Services I Office of Diversity, Inclusion and Community Relations



#### **Program Description**

The Office of Diversity, Inclusion and Community Relations conducts a variety of activities and programs aimed at promoting Brookline as a community that is mindful and respectful of all people. The mission of the Office and the goal of the Town are to have a community characterized by the values of inclusion. The Office is instrumental in assisting the Town to create and to maintain a diverse workforce and to provide support and consultation to employees and others who are subjected to discriminatory behavior. The Office supports community projects that promote multi-cultural awareness, decrease health disparities, and foster better relationships between Brookline's diverse populations. The Office works in conjunction with Town Departments and Non-profit Organizations to develop programs for disadvantaged groups and to increase the quality of life for all Brookline residents.

The Office provides professional and administrative support to the following Town Commissions and ad hoc Committees:

- Brookline Commission for the Disabled
- Brookline Commission for Women
- Brookline Commission for Diversity, Inclusion, and Community Relations
- Dr. Martin Luther King Jr. Celebration Committee
- Age Friendly Cities Committee
- Indigenous People's Day Committee
- Hidden Brookline
- Women Thriving Inc.
- Domestic Violence Roundtable

The Director serves as the Town's Chief Diversity Officer. The Office provides assistance in applying for health insurance and other entitlement programs and advocates for those who may face discrimination, unfair housing practices, stereotyping and social injustice.

#### **FY2022 Objectives**

1. To continue to evaluate and modify Town strategies designed to promote diversity in its workforce and Town boards/commissions.
2. To collaborate with Town agencies/organizations to increase voter participation with emphasis on the young adult and low-income populations.
3. To collaborate with Town agencies, departments, and community entities to create and promote cultural events within the Town.
4. To assist individuals to resolve complaints of discriminatory behavior and practices that occur in the Town.
5. Encourage and monitor each Town Department 's Diversity and Inclusion plans.
6. To have Town adopt a Data Management System that tracks the Diversity of vendors and contractors used by the Town.
7. Implement a community engagement process.
8. To address ADA action plan items.
9. Implement action items provided by the Racial Equity Consultant as warranted.
10. To coordinate with HR to implement a Worker Satisfaction Survey.

### **FY21 Accomplishments**

1. Continued to provide professional and administrative support to the Diversity, Inclusion, and Community Relations Commission, the Women's Commission, the Commission for Disabilities, Indigenous People's Day Committee, and Hidden Brookline.
2. Continued to collaborate with Town agencies and departments through the Brookline Domestic Violence Roundtable to commence domestic violence awareness campaigns and programs through a Domestic Violence Vigil, Domestic Abuse Workshop, and new written resources and materials.
3. Collaborated with Town agencies, departments, and community entities to create and promote cultural and diverse events within the Town, such as the Lunar New Year and Pride Month activities.
4. Assisted individuals to resolve complaints of discriminatory behavior and practices that occur in the Town.
5. Held two racial equity training for Department Heads and conducted a racial equity audit of Town Departments.
6. In conjunction with the CDICR created a Town-Wide Community Engagement Plan.
7. Onboarded a Community Engagement Organizer in charge of implementing the Community Engagement Plan.
8. In conjunction with the CDICR and community members developed the process and application for the Racial Equity Advancement Fund.
9. Continued collaboration with the Economic and Community Development Department to provide a Business Access In-Service and other resources with the intention of increasing physical access and inclusions in local businesses.
10. Provide staff support to Town-Wide Co-Vid mitigation efforts.

FY22 Budget Line Item Report

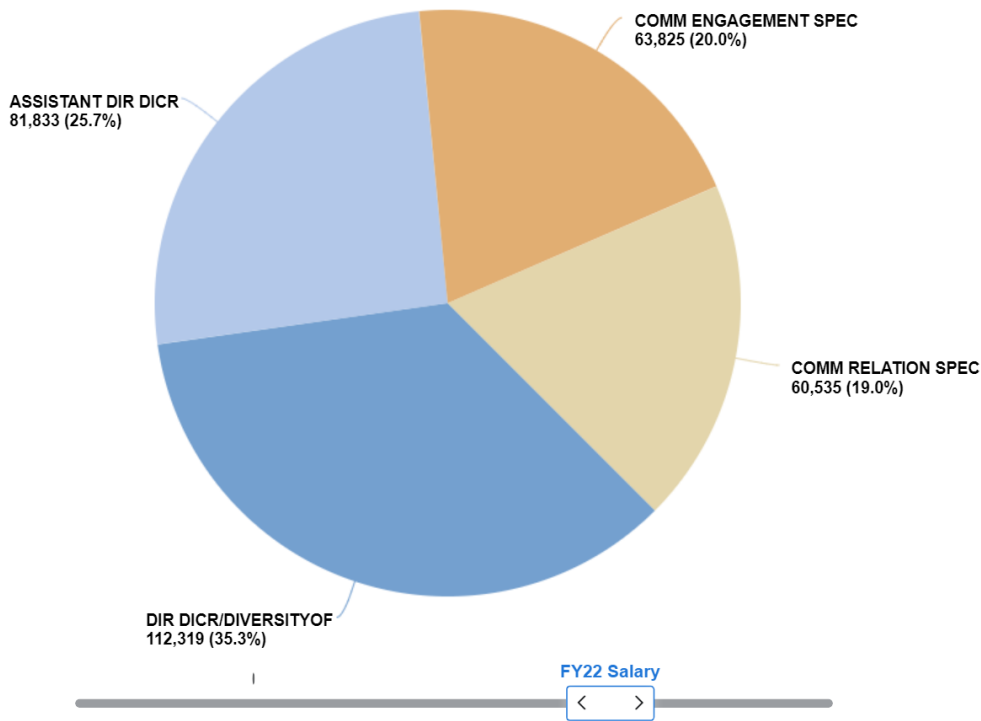
Collapse All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
▼ SALARIES	\$ 237,802	\$ 306,001	\$ 304,391	-1,610	-0.53%
(510101) PERMANENT FULL TIME	227,624	319,810	318,513	-1,297	-0.41%
(510901) PART TIME TEMPORARY SAL	2,500	3,000	3,000	0	0.00%
(513044) LONGEVITY PAY	750	750	750	0	0.00%
(515058) VACATION BUYOUT	4,075	0	0	0	0.00%
(515059) A DAY BUYOUT	2,853	0	0	0	0.00%
(OFFSETS) OFFSET	0	-17,559	-17,872	-313	-1.75%
▼ SERVICES	7,198	20,000	20,000	0	0.00%
(524010) PROFESSIONAL/TECH SERVICE	6,640	20,000	20,000	0	0.00%
(525002) WIRELESS COMMUNICATIONS	558	0	0	0	0.00%
▼ SUPPLIES	5,257	3,000	3,000	0	0.00%
(531012) OFFICE SUPPLIES	249	1,000	1,000	0	0.00%
(533111) SPECIAL PROGRAM SUPPLIES	3,257	2,000	2,000	0	0.00%
(533210) MEALS & RECEPTIONS	1,751	0	0	0	0.00%
▼ OTHER	6,456	3,000	3,000	0	0.00%
(551099) EDUCATION/TRAINING/CONFERENCES	1,456	3,000	3,000	0	0.00%
(553010) PROFESSIONAL DUES/MEMBERS	5,000	0	0	0	0.00%
▼ BUDGETED CAPITAL	468	875	875	0	0.00%
(5A0017) LEASED COMPUTER EQUIPMENT	468	875	875	0	0.00%
Total	\$ 257,180	\$ 332,876	\$ 331,266	-1,610	-0.49%

Data filtered by EXPENSES, DIVERSITY, INCLUSION & COMMUNITY RELATIONS and exported on February 11, 2021. Created with OpenGov

FY22 FTE Salary

Used for Sect. IV Departmental budgets IBB

Visualization



	FY22 FTE	FY22 Salary
DIR DICR/DIVERSITYOF	1	112,319
ASSISTANT DIR DICR	1	81,833
COMM ENGAGEMENT SPEC	1	63,825
COMM RELATION SPEC	0.720	60,535
Total	3.720	318,512

Data filtered by DICR, GENERAL FUND, DIVERSITY, INCLUSION & COMMUNITY RELATIONS and exported on February 12, 2021. Created with OpenGov

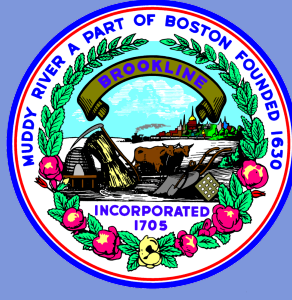
PERFORMANCE / WORKLOAD INDICATORS

	ACTUAL FY2019	ESTIMATE FY2020	ACTUAL FY2020	ESTIMATE FY2021	ESTIMATE FY2022
ADA Complaints	12	15	17	20	25
Affirmative Action Complaints	0	1	0	1	1
Discriminatory Conduct Complaints	5	5	7	5	7
Housing Complaints	2	4	5	4	5
Entitlement Benefits Assistance (Health Insurance/SNAP)	30	25	25	30	25
Human Services Information and Referral	103	90	113	120	120
Program Development- Consultations-Collaborations	15	15	13	25	25
Town Department Divesity and Inclusion Consultations	12	10	15	20	30
# of Fire Fund Referrals	0	2	0	0	0
Number of Ramp Program Requests	1	3	4	4	4



# Town of Brookline FY22 Program Budget

## Public Safety | Police



### Program Description

#### The Police Mission:

To work in partnership with citizens to ensure that all people enjoy a high quality of life without fear of crime. To work together to solve problems and provide the most responsive and highest quality police service. To proactively prevent crime, maintain order, and apprehend offenders in a manner consistent with the law.

#### Our Values:

The Department subscribes to the following set of governing values that state its beliefs as a police organization:

1. The most important asset of a Police organization is its personnel.
2. Excellence for the members of the Brookline Police Department is based upon fairness, integrity, hard work, and professionalism in the performance of their duties.
3. Commitment to providing the highest quality of professional law enforcement with the goal of enhancing the quality of life within the community.
4. Build partnerships with citizens in order to ensure personal safety, protect individual rights, protect property, and promote individual responsibility and community commitment.
5. Secure and maintain public respect in order to fulfill the Department's duties by acknowledging that the quality of life in the community is affected by not only the absence of fear of crime, but also by the absence of crime itself.

#### The Department consists of the following seven subprograms:

1. The **Administration and Support Division** provides overall control of the functions of the Department. It maintains records, provides communication and technology equipment and trains personnel in its uses, and distributes weapons and supplies. It also includes the Public Safety Business Office, a group responsible for all financial and budgetary matters for both the Police Department and the Fire Department.
2. The **Patrol Division** continuously patrols all sectors of town looking for criminal activity and serves as a deterrent by its presence. The Patrol function is vital and, for that reason, the Chief has directed that there be a minimum staffing policy

maintained daily: during the day 17 officers are on duty; during the evening there are 14 officers; and during the late-night/early-morning shift there are 13 officers.

3. The **Criminal Investigation Unit** is responsible for the investigation of all violent crimes, including murder, rape, armed robbery, assault, and narcotic violations, and maintains the safety of all evidence.

4. The **Community Relations Division** is charged with facilitating a spirit of cooperation between the public and the Department that helps to enhance the quality of life for all citizens.

5. The **Traffic and Parking Division** is responsible for enforcing all laws and regulations relating to traffic within town.

6. The **Public Safety Dispatch Division** is responsible for handling all police, fire, and ambulance calls, including E-911.

7. One patrol officer functions as the Town's **Animal Control** officer. The Animal Control officer normally works five days a week. All Brookline Police Officers are responsible for enforcing the Town's animal control laws, and will continue to do so when the Animal Control officer is off duty.

## **FY22 Objectives**

### **Patrol Division**

1. Train and integrate the current 6 new recruits through their probationary year.
2. Continue on duty scenario based training for Patrol Officers
3. Explore incorporating the use of electric bicycles into the Patrol Division to help connect with and respond to community concerns while increasing the ability to respond promptly to emergency situations
4. Train designated Patrol Officers as Field Training Officers
5. Actively recruit new officers while focusing our efforts to increase diversity among all our personnel

### **Community Service Division:**

1. Expand training to include roll call, live scenarios, on-duty, and multi-agency, as 48 hours of annual in-service training is not sufficient with the changing demands placed on the officers to keep them readied and up-to-date.
2. Continue the coordinating training with area police departments including Boston and Northeastern University, Chelsea, Cambridge and through the Metro Boston Police Collaborative.
3. Further evolve the family services unit. This unit of social workers, CSD, Detectives and CIT officers meets in an effort to mitigate the trauma of domestic violence, mental health, substance abuse, as well as youth and families in crisis. Currently some services for our youth, victims of domestic violence and families are not fully centralized. Examine if services were streamlined- lined under one command structure would it result in more effective delivery of services.
4. Continue to expand outreach to youth in the community through the Brookline Teen Center and have already developed a wonderful relationship with the new Brookline Teen Center director.
5. Expand social media reach and increase followership and information sharing. We are committed to do this through the use of video snippets.

Instagram, Facebook and YouTube.

### **Community Relations /Crisis Intervention Training (CIT)/Critical Incident Stress Management (CISM)**

1. Hold 6 40-hour trainings, including two specifically for local College and University agencies that we partner with, to meet this emerging demand.
2. Hold at least 4 MHFA trainings to maintain 100% of our agency trained.
3. Hold a minimum of two additional one day “advanced” trainings
4. Continue to integrate our clinician into calls for service
5. Continue to reexamine and streamline the use of the CIT model

### **Criminal Investigations Unit**

1. Deter bicycle thefts through multi-pronged approach including standard investigations, multi-jurisdictional, public awareness, and private business cooperation.
2. Work with other agencies and jurisdictions to identify criminal elements impacting Brookline
3. Certify additional Detectives in sexual assault investigations through MPTC
4. Certify additional Detectives in crime scene processing and death investigations
5. Obtain and utilize tablets for investigations
6. Obtain TruNarc Spectrometer or Narco pouch testing kits and training for field use

### **Traffic and Parking Division**

1. Continue to improve the proficiency of our Motorcycle Unit through training opportunities and involvement in special events. .
2. Return to ‘normal’ operations with improvements adjusted from COVID protocols. Includes streamline customer service at Clerks Office
3. Implement software for details and hiring as well as integrate with personnel daily assignments.
4. Continue to work with DPW in addressing Transportation Department initiatives on parking and bike lanes. Work with the Schools on safe pedestrian crossings

### **Public Safety Dispatch Division**

1. To ensure all E911 Dispatchers receive continuing education
2. To continue to seek grant funding from the Commonwealth of Massachusetts State 911 Department to assist with E911 Dispatcher training and education, as well as personnel and equipment costs for the Public Safety Dispatcher Center.
3. To continue to train new E911 Dispatchers utilizing the Communications Training Program.
4. To train all E911 Dispatchers on utilization of Purvis Fire Station Alerting system.
5. Creation of duties and responsibilities for new Lead Dispatcher or Shift Supervisor positions on each shift within the Public Safety Dispatch Center

### **Animal Control**

1. To continue to maintain state required approved continuing education credits.



2. To continue to seek additional Animal Control Officer and Supervisor training, to ensure all police officers are able to appropriately respond to animal related calls.
3. To continue to increase public awareness and education on animal control laws and issues.
4. To continue to work cooperatively with Town departments, state, and regional agencies that have a role in animal control issues.

## **FY21 Accomplishments**

### **Patrol Division**

1. All Patrol Officers have been CIT trained.
2. Increased number of Officers in the Patrol Bicycle Unit
3. Adapted Patrol Report taking procedures for alternative reporting and response practices to increase public health safety during COVID-19
4. Procured and deployed health safety equipment and administrative process to minimize the threat of spreading COVID-19
5. Integrated K-9 Officers into the Patrol Division

### **Community Service Division (CSD)**

1. We were able to assign an officer to assist with department wide Training BPD now has multiple officers who are certified trainers for the MPTC. Most important among these trainers are the number of officers who are ICAT-De-escalation Trained. The department's commitment to de-escalation continues to grow and this has been a great accomplishment for BPD.
2. A previously unlisted objective, one we could not have planned for, was the Division's response to the COVID emergency. WE have cross trained officers and developed a law enforcement public health approach in CSD. WE did not realize these skills would be integral to a response to a pandemic. Three of the five key personnel at the EOC were CSD officers-While the rest of the community, state and region shut down, these officers spent months putting the safety and wellness of the community before themselves.
3. The Roll call training program became more established. CSD did an outstanding job adjusting to the changing demands that were thrust upon them. Most notable among this was the roll call training implemented specific to dealing with citizens with COVID.
4. Unfortunately we were unable to hold our planned 3rd annual Police Summer Program due to COVID.
5. CSD led the way in community partnerships. The School Resource Officer (SRO) was instrumental in bringing a sense of stability and support to Brookline High School. The SRO has been widely lauded as a key partner in helping make the stressful high school experience more manageable.

### **Criminal Investigations Unit**

1. Successfully investigated homicide in Brookline resulting in an arrest and indictment.
2. Detectives attended training (mostly virtual) to include: National Cyber Crimes Conference and Cellebrite Basic Cell phone investigations.

3. Established alternate location for Division in order to separate work space as part of COVID precautions.
4. Worked with multiple agencies to identify a bike theft ring and clear out their chop shop operation
5. Investigated and charged B&E suspect responsible for south side residential breaks

### **Traffic and Parking Division**

1. Traffic Clerks and PSBO Offices are complete with the addition of higher desk separators and all necessary technology systems put in place. This included final touches from the earlier move to this specific office space from across the lobby.
2. With regard to COVID, the Clerk's office initiated steps to safeguard services internally and to the public. This included the removal of counter/in person services and the expansion of telecommunications for ticket processing and RMV matters.
3. Website updates to assist the public with access to services as well as promoting e-mail, mail in and telephone hearings for parking ticket appeals.
4. We also alternated our essential clerical staff with in person and at home schedules. One Clerk's position and one Meter Collector position were eliminated due to COVID related budget cuts.
5. Although the Marathon will not take place this spring, we continue to manage all regular special events in Town.

### **Public Safety Dispatch Division**

1. Ongoing continuing education for all E911 Dispatchers.
2. Sought and received three grants from the Commonwealth of Massachusetts State 911 Department which assists with funding of E911 Dispatcher training courses and fees, personnel costs, and equipment used for day-to-day operations of the Public Safety Dispatch Center. The three grants amounted to \$210,915.90.
3. Developed and implemented a structured Communications Training Program
4. Trained and certified six new E911 Dispatchers.
5. Certified two E911 Dispatchers as APCO Communications Training Officers.

### **Animal Control**

1. Completed Massachusetts required approved continuing education credits.
2. Attending approved online animal control related trainings.
3. Conducted enforcement of State and Town by Law animal related issues.
4. Assist Brookline agencies, residents and outside agencies in enhancing animal control procedures, and resolving animal control related issues.



FY22 Budget Line Item Report

Collapse All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
▼ SALARIES	\$ 15,843,949	\$ 16,334,887	\$ 16,137,779	-197,108	-1.22%
(510101) PERMANENT FULL TIME	11,198,333	12,181,166	12,151,128	-30,037	-0.25%
(510102) PERMANENT PART TIME	62,834	153,858	153,858	0	0.00%
(510140) SHIFT DIFFERENTIAL	250,400	256,121	256,121	0	0.00%
(510143) WORKING OUT OF CLASS	14,674	22,128	22,128	0	0.00%
(510300) OVERTIME PAY	1,145,700	668,059	587,863	-80,196	-13.64%
(510335) OVERTIME PAY - SPECIAL PROGRAM	575	0	0	0	0.00%
(510901) PART TIME TEMPORARY SAL	34,232	68,198	68,198	0	0.00%
(510955) PART TIME TEMP INTERN	4,285	0	0	0	0.00%
(512031) COURT PAY	27,953	190,846	190,846	0	0.00%
(512033) POLICE LAG TIME	147,651	161,199	161,199	0	0.00%
(513032) IN SERVICE TRAINING	325,128	321,157	321,157	0	0.00%
(513042) EDUCATIONAL INCENTIVE PAY	7,317	251,200	251,115	-85	-0.03%
(513043) QUINN EDUCATION INCENTIVE	1,416,590	1,368,738	1,259,768	-108,970	-8.65%
(513044) LONGEVITY PAY	81,265	83,200	84,150	950	1.13%
(513045) CAREER INCENTIVE PAY	312,458	13,601	36,721	23,120	62.96%
(51304E) ENHANCED LONGEVITY PAY	0	2,241	0	-2,241	--
(514502) SPECIALTY PAY	22,536	28,300	28,300	0	0.00%
(514506) EMT PAY	14,000	14,350	14,350	0	0.00%
(514510) SICK PAY BUYOUT	26,258	0	0	0	0.00%
(514511) SICK BUYOUT - 2 FOR 1-RETIREAB	10,192	0	0	0	0.00%
(515041) HOLIDAY PAY	465,522	543,693	543,693	0	0.00%
(515058) VACATION BUYOUT	96,160	0	0	0	0.00%
(515059) A DAY BUYOUT	78,803	91,886	91,886	0	0.00%
(515080) INJURED ON THE JOB	62,945	0	0	0	0.00%
(515501) CLOTHING-UNIFORM ALLOWANCE	34,170	37,125	37,125	0	0.00%
(515540) AUTO ALLOWANCE	3,966	2,700	2,700	0	0.00%
(OFFSETS) OFFSET	0	-124,879	-124,527	352	0.28%
▼ SERVICES	726,478	516,731	516,731	0	0.00%
(521530) BOTTLED WATER SERVICE	10,212	3,000	3,000	0	0.00%
(522010) OFFICE EQUIP R & M	0	1,600	1,600	0	0.00%
(522015) D P EQUIP R & M	17,894	19,250	19,250	0	0.00%
(522016) COMPUTER SOFTWARE R & M	99,659	130,121	130,121	0	0.00%
(522017) COMMUNICATIONS EQUIP R & M	41,504	55,341	55,341	0	0.00%
(522040) PUBLIC SAFETY EQUIP R & M	2,858	4,832	4,832	0	0.00%
(522070) MOTOR VEHICLE/EQUIP R & M	6,174	2,500	2,500	0	0.00%
(522400) BUILDING MAINTENANCE	2,163	2,500	2,500	0	0.00%
(523010) OFFICE EQUIP RENTALS/LEASES	0	550	550	0	0.00%
(523011) COPY EQUIP RENTAL/LEASES	6,765	6,437	6,437	0	0.00%
(523090) OTHER RENTALS/LEASES	7,878	0	0	0	0.00%
(524010) PROFESSIONAL/TECH SERVICE	138,017	162,000	162,000	0	0.00%
(525001) TELEPHONE & TELEGRAPH	39,653	37,500	37,500	0	0.00%
(525002) WIRELESS COMMUNICATIONS	98,662	77,000	77,000	0	0.00%
(525022) POSTAGE	3,139	5,000	5,000	0	0.00%
(525030) PRINTING SERVICES	5,594	5,000	5,000	0	0.00%
(525050) DELIVERY SERVICES	111	300	300	0	0.00%
(528030) LAUNDRY SERVICES	2,221	2,800	2,800	0	0.00%
(528050) VETERINARY SERVICES	1,288	1,000	1,000	0	0.00%
(528075) ONLINE TRANSACTION CONV FEE	242,688	0	0	0	0.00%
▼ SUPPLIES	262,558	147,857	122,857	-25,000	-20.35%
(531012) OFFICE SUPPLIES	45,524	22,000	22,000	0	0.00%
(533210) MEALS & RECEPTIONS	3,507	0	0	0	0.00%
(533250) FOOD FOR PRISONERS	2,044	3,500	3,500	0	0.00%
(539012) BOOKS & PERIODICALS	2,141	2,000	2,000	0	0.00%
(539031) PUBLIC SAFETY SUPPLIES	97,107	32,857	32,857	0	0.00%
(539035) UNIFORMS & PROTECTIVE CLO	109,841	85,500	60,500	-25,000	-41.32%
(539040) PHOTOGRAPHIC SUPPLIES CLO	2,394	2,000	2,000	0	0.00%
▼ OTHER	97,199	45,300	28,300	-17,000	-60.07%
(551020) IN STATE TRAVEL -OTHER	5	1,000	1,000	0	0.00%
(551099) EDUCATION/TRAINING/CONFERENCES	89,825	37,000	20,000	-17,000	-85.00%
(553010) PROFESSIONAL DUES/MEMBERS	7,369	7,300	7,300	0	0.00%
▼ UTILITIES	250,513	298,802	291,193	-7,609	-2.61%
(561010) ELECTRICITY	102,254	145,259	124,358	-20,901	-16.81%
(561011) NATURAL GAS	21,557	26,405	27,143	738	2.72%
(561020) GENERATOR FUEL	0	300	150	-150	-100.00%
(561021) GASOLINE	117,855	117,245	130,035	12,790	9.84%
(561022) DIESEL	5	370	100	-270	-270.00%
(561030) WATER	8,843	9,223	9,407	184	1.96%
▼ BUDGETED CAPITAL	562,286	396,169	396,169	0	0.00%
(5A0001) AUTOMOBILES	504,442	300,122	300,122	0	0.00%
(5A0003) PUBLIC SAFETY EQUIPMENT-BUD	0	40,000	40,000	0	0.00%
(5A0017) LEASED COMPUTER EQUIPMENT	57,844	56,047	56,047	0	0.00%
Total	\$ 17,742,983	\$ 17,739,746	\$ 17,493,030	-246,716	-1.41%

Data filtered by EXPENSES, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

Expand All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
► REVENUES	\$ 7,236,338	\$ 4,245,000	\$ 4,245,000	0	0.00%
Revenues Less Expenses	\$ 7,236,338	\$ 4,245,000	\$ 4,245,000	0	0.00%

Data filtered by Types, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

# Administration

Expand All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
▸ SALARIES	\$ 1,115,121	\$ 889,177	\$ 1,030,685	141,508	13.73%
▸ SERVICES	319,845	340,649	340,649	0	0.00%
▸ SUPPLIES	255,439	134,107	109,107	-25,000	-22.91%
▸ OTHER	96,980	42,300	25,300	-17,000	-67.19%
▸ UTILITIES	250,513	298,802	291,193	-7,609	-2.61%
▸ BUDGETED CAPITAL	562,286	396,169	396,169	0	0.00%
Total	\$ 2,600,184	\$ 2,101,204	\$ 2,193,103	91,899	4.19%

Data filtered by EXPENSES, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

# Patrol Services

Expand All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
▸ SALARIES	\$ 7,867,557	\$ 8,492,559	\$ 8,360,109	-132,450	-1.58%
▸ SERVICES	4,146	5,832	5,832	0	0.00%
Total	\$ 7,871,703	\$ 8,498,391	\$ 8,365,941	-132,450	-1.58%

Data filtered by EXPENSES, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

# Investigation Services

Expand All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
▸ SALARIES	\$ 2,618,487	\$ 2,752,413	\$ 2,499,824	-252,589	-10.10%
▸ SERVICES	9,892	7,800	7,800	0	0.00%
▸ SUPPLIES	2,394	3,000	3,000	0	0.00%
Total	\$ 2,630,773	\$ 2,763,213	\$ 2,510,624	-252,589	-10.06%

Data filtered by EXPENSES, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

# Community Relations

Expand All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
▸ SALARIES	\$ 1,042,438	\$ 830,177	\$ 1,109,704	279,527	25.19%
Total	\$ 1,042,438	\$ 830,177	\$ 1,109,704	279,527	25.19%

Data filtered by EXPENSES, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

# Traffic Control

Expand All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
► SALARIES	\$ 2,069,087	\$ 2,275,868	\$ 1,969,393	-306,475	-15.56%
► SERVICES	392,595	162,450	162,450	0	0.00%
► SUPPLIES	4,162	8,000	8,000	0	0.00%
Total	\$ 2,465,844	\$ 2,446,318	\$ 2,139,843	-306,475	-14.32%

Data filtered by EXPENSES, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

## Public Safety Dispatch

Expand All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
► SALARIES	\$ 1,028,049	\$ 990,030	\$ 1,061,931	71,901	6.77%
► SUPPLIES	563	2,750	2,750	0	0.00%
► OTHER	219	3,000	3,000	0	0.00%
Total	\$ 1,028,831	\$ 995,780	\$ 1,067,681	71,901	6.73%

Data filtered by EXPENSES, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

## Animal Control

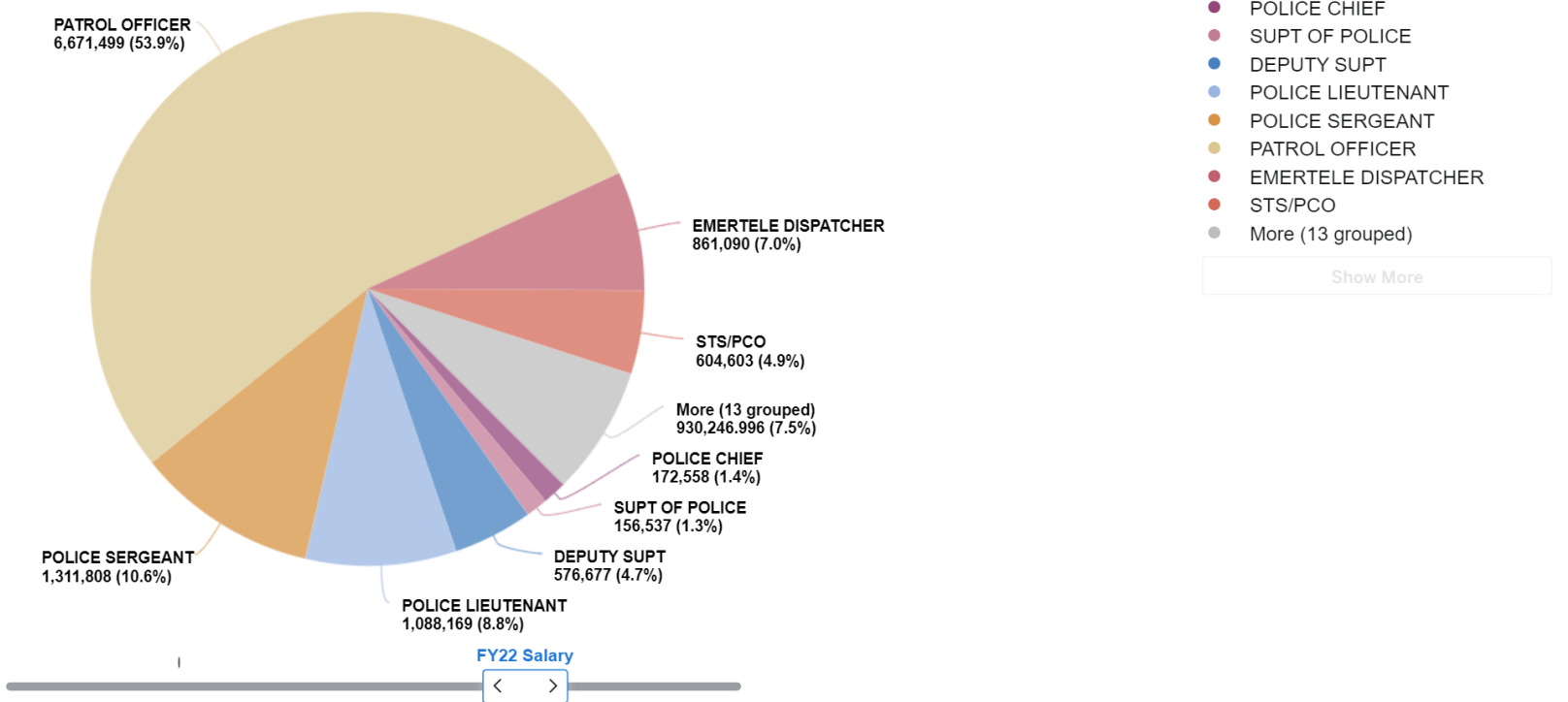
Expand All	FY20 Actual	FY21 Budget	FY22 Budget	2021-22 Variance	2021-22 Variance
► SALARIES	\$ 103,210	\$ 104,661	\$ 106,133	1,472	1.39%
Total	\$ 103,210	\$ 104,661	\$ 106,133	1,472	1.39%

Data filtered by EXPENSES, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

FY22 FTE Salary

Used for Sect. IV Departmental budgets IBB

Visualization



	FY22 FTE	FY22 Salary
POLICE CHIEF	1	172,558
SUPT OF POLICE	1	156,537
DEPUTY SUPT	4	576,677
POLICE LIEUTENANT	11	1,088,169
POLICE SERGEANT	16	1,311,808
PATROL OFFICER	102	6,671,499
PUB SAF BUSINESS MGR	0.500	45,845
CF EMER TELECOM DISP	1	77,614
DOMESTIC VIO ADVOCAT	1	68,492
COOR CLINICAL SERV	1	64,962
BUSINESS/ADMIN MANAGER - POLICE	1	67,308
PARKING MTR COLLECTR	1	61,920
EMERTELE DISPATCHER	16	861,090
EXECUTIVE ASSISTANT	1	62,473.996
PSBO SR CLERK TYPIST - POLICE	2	84,195
SR CLRK TYP	3	152,577
STS/PCO	12	604,603
PARKING CONTROL OFFICER (PCO) PT	1.920	90,600
SCHOOL TRAFFIC SUPERVISOR (STS) PT	1.180	63,258
PARK SECURITY OFFICER	2.200	68,198
CIT STAFF ASST	0.500	22,804
Total	180.300	12,373,187.996

Data filtered by POLICE, GENERAL FUND, POLICE and exported on February 11, 2021. Created with OpenGov

PERFORMANCE / WORKLOAD INDICATORS

	ACTUAL	ESTIMATE	ACTUAL	ESTIMATE	ACTUAL	ESTIMATE	ESTIMATE
	FY2018	FY2019	FY2019	FY2020	FY2020	FY2021	FY2022
Total Part A Crimes	734	667	686	658	640	648	711
Homicide	0	0	0	0	1	0	0
Rape	4	5	6	4	0	3	4
Robbery	7	10	11	9	10	8	7
Assaults	124	120	127	120	96	118	120
Breaking and Entering	60	47	65	45	36	43	45
Larceny	528	475	471	470	483	468	525
Motor Vehicle Theft	11	10	6	10	14	8	10
Part A Crime- Clearance Rate	46%	47%	42%	46%	46%	47%	48%
Arrests	294	400	355	400	282	400	375
Field Interrogations	1,800	1,600	1,216	1,600	1,006	1,600	1,400
Field inquiries/ P.O.I.	45	50	33	55	38	55	45
Domestic Violence Investigations	76	75	94	75	73	105	95
Crimes Solved through Fingerprint IDs	6	10	8	6	5	12	7
Crimes Solved through DNA	2	4	8	4	0	8	5
Animal Complaints	750	850	747	850	773	850	800
Loud Parties Responded to	140	140	160	135	164	130	150
Noise By-Law Violation Tickets issued	21	50	18	50	0	40	30
STARS Assignments	34	55	41	50	15	35	30
Alcohol Administrative Inspections-Passed	13	20	9	20	4	15	20
Alcohol Administrative Inspections- Failed Warnings	17	20	28	20	16	15	20
Alcohol Administrative Inspection - Failed TBL Fine	6	10	4	10	3	5	10
Alcohol Owner Management Changes & Investigation	31	36	51	40	32	35	40
One & Two Day Licenses/ Permits	148	150	150	150	69	90	150
Registered Marijuana Dispensary Inspections	1	3	1	5	5	7	7
Registered Marijuana Dispensary	1	3	1	3	2	4	4
Rooming Houses Inspected	50	50	48	40	50	50	50
Licenses to Carry Firearms Issued/Renewed	110	110	96	110	117	110	110
Firearms Identification Cards (FID)	27	30	25	30	29	20	20
Fingerprints Taken for Community Members	669	500	397	500	103	250	250
Town Council Investigations	41	50	37	50	48	50	50
Police-related Calls	67,117	68,000	68,505	68,000	59,611	69,000	70,000
Self-Initiated Police Calls	26,657	26,000	26,657	26,000	30,622	27,000	28,000
Fire-related Calls	8,298	8,200	8,523	8,200	5,926	8,600	9,000
Medical Calls	4,530	4,500	4,704	4,500	3,970	4,750	4,800
E-911 Calls	15,001	15,500	17,571	15,500	18,552	18,000	19,000

PERFORMANCE / WORKLOAD INDICATORS (con't)

	ACTUAL	ESTIMATE	ACTUAL	ESTIMATE	ACTUAL	ESTIMATE	ESTIMATE
	FY2018	FY2019	FY2019	FY2020	FY2020	FY2021	FY2022
Facebook Followers	3,608	3,700	4,055	4,200	4,672	4,800	5,000
Twitter Followers	10,056	10,200	10,400	10,500	10,914	11,000	11,200
Website Hits	74,500	72,500	91,878	75,000	157,555	80,000	90,000
Instagram followers	1,258	1,350	1,500	1,650	2,088	2,200	2,500
Students in AWARE	1,707	1,707	1,781	1,750	1,761	1,750	1,800
Citizen Police Academy Graduates	30	30	35	30	0	30	30
Women Participating in RAD Classes	130	130	100	150	0	150	75
Child Seats Inspected	127	300	160	175	180	175	200
Taxi Vehicles Inspections	20	23	25	25	0	25	20
Hackney Licenses Issued	80	60	40	50	0	50	40
Parking Tickets Issued	109,129	105,500	115,945	100,000	88,597	105,000	90,000
Collection Rate In-State (CY)	86%	85%	85%	85%	55%	85%	85%
Collection Rate Out-Of-State (CY)	62%	62%	62%	62%	54%	62%	62%
Parking Tickets Paid Online	48,960	48,500	54,312	48,500	43,932	50,000	45,000
Parking Tickets Appealed Online	7,288	7,500	7,820	7,500	6,435	8,000	7,000
Moving Violations	11,063	9,000	12,574	7,000	8,051	10,000	10,000
Parking Ticket Hearings	12,101	12,500	12,160	12,500	9,034	12,500	12,500
Detail Collection Rate:							
0 < 30 Days	16%	20%	66%	20%	60%	20%	20%
31 < 60 Days	73%	74%	74%	75%	80%	75%	75%
61 < 90 Days	86%	90%	90%	90%	94%	90%	90%
91 < 105 Days	95%	95%	95%	95%	96%	95%	95%
106 < 115 Days	99%	99%	99%	99%	98%	99%	99%
Bicycle Enforcement	103	100	40	100	87	75	75
Grants Awarded:							
Police	\$250,000	\$250,000	\$373,720	\$373,720	\$662,200	\$541,855	\$541,855
Urban Areas Security Initiatives (UASI)							
(Funding for Multiple Town Agencies)	\$246,288	\$250,000	\$373,720	\$250,000	\$373,720	\$350,000	\$350,000
Emergency Management:							
Citizens trained for CERT							
(Community Emergency Response Team)	16	25	19	25	0	30	25
CERT Activations							
(shelters, flu clinics, storm drill, etc.)	8	6	7	10	40	10	15
Community education programs on							
emergency preparedness	15	16	13	15	18	15	15
Emergency Operation Center (EOC) Activations	3	3	0	3	7	5	5

8.A.

**EPSTEIN & AUGUST, LLP**  
**ATTORNEYS AT LAW**  
**875 MASSACHUSETTS AVENUE**  
**SUITE 31**  
**CAMBRIDGE, MASSACHUSETTS 02139**  
**TEL: (617) 951-9909**  
[peter@epsteinandaugust.com](mailto:peter@epsteinandaugust.com)

**Peter J. Epstein**

TO: Brookline Select Board  
FROM: Peter J. Epstein  
DATE: March 3, 2021  
RE: RCN Transfer Process

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RCN Telecom Services of Massachusetts, LLC ("RCN") is one of the two current cable television Licensees serving the Town of Brookline. RCN's parent is Radiate Holdings, LP ("Radiate"). Radiate filed an FCC Form 394 with the Town, dated December 7, 2020, seeking the Select Board's approval to transfer control of RCN to Stonepeak Associates, IV LLC. As required by State regulations, the Select Board held a public hearing on the transfer on February 2, 2021. The Select Board is now required to make a decision on the transfer request no later than April 7, 2021, but can do so sooner. To this end, I have drafted a simple motion approving the transfer, as well as a draft letter conveying that decision to the Massachusetts Department of Telecommunications and Cable; both documents are attached hereto.

In the meantime, please let me know if you have any questions about this transfer process.

#### **RCN TRANSFER MOTION**

**MOVED:** The Brookline Select Board hereby votes to approve the transfer of control of the Brookline Cable Television Renewal License, dated April 27, 2018, from Radiate Holdings, LP to Stonepeak Associates, IV LLC.





# TOWN of BROOKLINE

## *Massachusetts*

**MELVIN A. KLECKNER**  
TOWN ADMINISTRATOR

333 WASHINGTON STREET  
BROOKLINE, MASSACHUSETTS 02445  
TEL. (617) 730-2211  
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[www.brooklinema.gov](http://www.brooklinema.gov)

### Memorandum

**MEMO TO:** Select Board  
**FROM:** Mel Kleckner, Town Administrator  
**DATE:** March 5, 2021  
**SUBJECT:** Recommendation to Sell 15-19 Oak Street

I am recommending for the Select Board's consideration the sale of the three residential condominium units located at 15, 17 and 19 Oak Street. As you know, these properties were acquired by the Town to accommodate the space needs of a new (9th) elementary school planned to be constructed on adjacent Town owned property. With the failure of the Baldwin tax referendum, these properties have become surplus. The Town temporarily borrowed \$4.7 million to meet its combined purchase of these properties. Amortized over a 25-year period, the annual debt service will commence at over \$350,000. Over its lifetime, this debt will cost the Town nearly \$7 million in combined principal and interest.

After a transitional period of renting back the units to the former owners, the condos are now vacant and available for re-sale. With no rental income coming in, and a decision looming on the permanent financing of this debt obligation, it is essential that we make a prompt decision about the disposition of these properties. In addition to the cost of annual debt service, the Town is obligated to maintain insurance coverage and to make major repairs including replacement of HVAC systems, the roof and other essential building systems. While these properties are currently in good condition, the Town will need to program these future capital improvements into its CIP.

The Town has two alternatives to selling the properties; 1.) they can be leased to residential tenants for market rent, including the payment of utilities and expenses, or 2.) they can be re-purposed for a municipal use. For the Town to re-purpose them for municipal office or classroom use, it would likely require several hundreds of thousands of dollars to adapt them to meet code requirements for disability access and enhanced life safety systems. It appears that existing School department leases provide sufficient capacity for their office and supplemental classroom space needs in the short term. The lease option would likely generate \$175,000 in combined annual rent and cover most of the Town's operating expenses. However, this rental income is insufficient to meet our annual debt service costs and it keeps the Town in an ownership role with all of the costs, obligations and uncertainty of being a landlord. An

## 9.A.

additional benefit of selling the properties is getting the property taxes that would otherwise be due if the Town was not the owner. Based on the current assessed value, we project new annual taxes of about \$36,500 from these three properties. In addition, when these properties are added to the tax rolls, it will provide a one-time financial benefit of about \$46,000 in New Growth to our Fiscal Year 2023 tax levy.

The properties were acquired in December of 2019 at the following prices;

-15 Oak Street	\$1,500,000
-17 Oak Street	\$1,600,000
-19 Oak Street	<u>\$1,600,000</u>
	\$4,700,000

The current appraised value for these three properties totals \$4,877,000. We would establish the appraised value as the minimum bid and hope that market forces and the competitive nature of the sale would generate even higher value. After covering up to \$50,000 in recording fees and other expenses required to market the properties for sale, state law requires the proceeds from the sale of municipally owned property to first be used to retire any indebtedness the Town incurred for its initial acquisition of the asset. Any remaining amounts may be used for any purpose for which a town is authorized to incur debt for a period of five years or more. This includes a wide range of capital expenditures.

In summary, with the abandonment of the Baldwin School project, we see no strategic value in the Town retaining these high quality residential properties. We believe an outright sale of the properties is in the best long term financial interests of the Town as opposed to leasing them or using them for a municipal purpose.

Finally, the sale option could allow the Town to place restrictions on the use of the property. For example, the Town could place permanent restrictions to require affordability. If the Board was inclined to do so, we would need to better understand the diminution of value that such a restriction would impose and its implications.

Thank you for your consideration.

cc: Dr. James Marini, Interim Superintendent of Schools  
Jeana Franconi, Finance Director  
David Geanakakis, Chief Procurement Officer  
Rachid Belhocine, Acting Chief Assessor  
Charles Simmons, Director of Public Buildings  
Daniel Bennett, Building Commissioner  
Jonathan Simpson, Associate Town Counsel  
Melissa Goff, Deputy Town Administrator  
Michael Sandman, Chair, Advisory Committee



MAY 19, 2021  
ANNUAL TOWN MEETING  
INDEX

ARTICLE NO.

TITLE

1. Appointment of Measurers of Wood and Bark. (Select Board)
2. Approval of Collective Bargaining Agreements. (Human Resources)
3. Annual authorization of Compensating Balance Agreements. (Treasurer/Collector)
4. Report on the close-out of special appropriations / Bond Authorization Rescission. (Select Board)
5. Approval of unpaid bills of a prior fiscal year. (Select Board)
6. Acceptance of legislation to increase certain property tax exemptions. (Assessors)
7. Retroactive Application of Bond Premium for the Driscoll School. (Select Board)
8. Authorize the acceptance of a grant of emergency access easement and restrictive covenant prohibiting certain future development from the developer of the Residences of South Brookline at Hancock Village. (Select Board)
9. Annual (FY22) Budget Appropriations Article. (Advisory Committee)
10. FY22 Budget Amendment. (Brown)
11. Amend Article 2.1 of the Town's General Bylaws to include a statement in Town Meeting Procedures acknowledging the history of Indigenous people in Brookline.. (Indigenous People Celebration Committee)
12. Amend Articles 2.5 and 2.2 of the Town's General Bylaws to require certain roll-call votes in the Combined Reports. (Toffel, et al)
13. Amend Article 3.14 of the Town's General Bylaws to extend the effective date of amendments to Article 3.14 adopted by Town Meeting on December 12, 2019. (CDICR)
14. Amend the Town's Zoning Bylaws pertaining to Short Term Rentals. (Moderator's Committee on Short Term Rentals)
15. Amend the Town's General Bylaws pertaining to Short Term Rentals (Moderator's Committee on Short Term Rentals)

## 10.A.

16. Amend Article 10.2 of the Town's General Bylaws pertaining to the enforcement of Short Term Rental Regulations (Moderator's Committee on Short Term Rentals)
17. Amend the Town's General Bylaws pertaining to Short Term Rentals (Roberts, et. al)
18. Amend the Town's Preservation Commission and Historic Districts Bylaw to extend the Lawrence Local Historic District (Preservation Commission)
19. Amend Article 8.37 of the Town's General Bylaws pertaining to Marijuana Establishments (Planning and Community Development Department)
20. Amend the Town's Zoning Bylaws to conform to amended state regulations pertaining to the licensing and regulation of Marijuana Couriers and Delivery Operators. (Planning and Community Development Department)
21. Amend the Town's Zoning Bylaws pertaining to micro unit dwellings and age restricted units in the Emerald Island Special District (Planning and Community Development Department)
22. Amend Article 3.21 of the Town's General Bylaws to require the posting of agenda packets on the Town's website. (Toffel et. al.)
23. Amend Section 4.08 of the Town's Zoning Bylaw pertaining to Affordable Housing Requirements. (Blood)
24. Amend Article 3.12 of the Town's General Bylaws to establish a Sustainability Division within the Department of Planning and Community Development. (Select Board)
25. Amend Sections 5.06 and 2.06 of the Town's Zoning By-law to require new buildings in the Emerald Island Special District to be Fossil Fuel Free (FFF). (Scanlon et. al)
26. Amend the Town's Zoning Bylaws to incentivize Fossil Fuel Free (FFF) infrastructure in new construction and significant rehabilitation of buildings by special permit. (Cunningham et. al)
27. Petition for a special act exempting the Brookline Housing Authority from certain bidding requirements for the construction and development of affordable housing at 32 Marion Street. (Scanlon, et al)
28. Petition for a special act authorizing the expenditure of a certain sum from the Town's Marijuana Mitigation Stabilization Fund for the purpose of advancing racial equity. (Select Board)
29. Amend Article 8.10 of the Town's General Bylaws to permit the use of sidewalks and outdoor premises for year-round outdoor restaurant seating. (Planning and Community Development Department)

## 10.A.

30. Amend the Town's Zoning Bylaws to authorize year-round outdoor restaurant seating. (Planning and Community Development Department)
31. Petition for a special act pertaining to speed regulations on the Town's public ways. (Transportation Board)
32. Amend the Town's General Bylaws to establish a Community Preservation Committee. (Select Board)
33. Amend the Town's General Bylaws to require public notification of the Town's eligibility for certain emergency, disaster or stimulus funds and public hearings on the use of such funds. (Sweitzer, et al)
34. Resolution pertaining to the adoption of a voluntary Payment in Addition to Tax ("PIATT") Program. (Harris et. al)
35. Resolution to encourage voting in Brookline. (Ishak, et. al)
36. Resolution to establish a Moderator's Committee to report on and address the Brookline Fiscal Advisory Committee's February 2020 Report recommendations. (Toffel, et.al)
37. Resolution pertaining to the declaration of a Climate Emergency and adoption of a Climate Crisis Action Plan. (Norton, et al)
38. Resolution to create a Fisher Hill Study Committee (Brown et. al)
39. Resolution to create a Babcock Street Parking Lot Study Committee (Brown et. al)
40. Resolution to provide additional funding and explore future partnerships with the Brookline Interactive Group ("BIG") and establish a committee to reexamine current and future grant of location and cable benefits to the Town. (Saltzman, et al)
41. Reports of Town Officers and Committees. (Select Board)

2021 ANNUAL TOWN MEETING WARRANT REPORT

The Select Board and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2021 Annual Town Meeting to be held on Wednesday, May 19, 2021 at 7:00 p.m.

Note: The following pages of this report are numbered consecutively under each article.

ARTICLE 1

FIRST ARTICLE

Submitted by: Select Board

To see if the Town will establish that the number of Measurers of Wood and Bark be two, to be appointed by the Select Board, or act on anything relative thereto.

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PETITIONER'S ARTICLE DESCRIPTION

Article 20 of the November, 2000 Special Town Meeting requires that this be the first article at each Annual Town Meeting. It calls for the Select Board to appoint two Measurers of Wood and Bark.

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21 MAR 2 PM 12:30

ARTICLE xX ARTICLE

Submitted by: Human Resources

To see if the Town will raise and appropriate, or appropriate from available funds, a sum or sums of money to fund the cost items in collective bargaining agreements between the Town and various employee unions; fund wage and salary increases for employees not included in the collective bargaining agreements; and amend the Classification and Pay Plans of the Town; or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for any Town Meeting when there are unsettled labor contracts. Town Meeting must approve the funding for any collective bargaining agreements.

21 MAY 2 PM 12:23

ARTICLE xX ARTICLE

Submitted by: Treasurer/Collector

To see if the Town will authorize the Town Treasurer, with the approval of the Select Board, to enter into Compensating Balance Agreement(s) for FY2022 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

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PETITIONER'S ARTICLE DESCRIPTION

This article authorizes the Town Treasurer to enter into Compensating Balance Agreements, which are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in return for which the bank agrees to perform certain services for the depositor. In order to incorporate such compensating balance agreements into the local budget process, the Commonwealth passed a law in 1986 mandating that all such arrangements be authorized by Town Meeting on an annual basis.

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21 MAR 2 PM 12:24



ARTICLE xx ARTICLE

Submitted by: Select Board

To see if the Town will authorize the Comptroller to close out either all or a portion of the unexpended balances in certain Special Appropriations and return said sums to the Surplus Revenue accounts, and rescind the unused portion of prior borrowing authorizations, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a warrant article showing the status of all special appropriations.

ARTICLE xx ARTICLE

Submitted by: Select Board

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of the previous years, which may be legally unenforceable due to the insufficiency of the appropriations therefore, and appropriate from available funds, a sum or sums of money therefore, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for every Town Meeting in case there are any unpaid bills from a prior fiscal year that are deemed to be legal obligations of the Town. Per Massachusetts General Law, unpaid bills from a prior fiscal year can only be paid from current year appropriations with the specific approval of Town Meeting.

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21 MAY 2 PM 12:23

**BOARD OF ASSESSORS**

The Board of Assessors voted at their regular meeting held on February 23, 2021 to recommend to the 2021 Annual Town Meeting to continue to grant additional property tax exemption amounts allowed by law as follows:

PROPOSED ARTICLE FOR 2021 ANNUAL TOWN MEETING

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2022 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

PETITIONER'S EXPLANATION

This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, low-income elderly, the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved by Town Meeting continually since FY1989.

PETITIONER'S RECOMMENDATION

This article provides for an increase in the property tax exemption amounts for certain classes of individuals, including surviving spouses, the elderly, the blind and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY1989. The estimated cost for FY2022 is approximately \$44,250 and is funded from the tax abatement overlay reserve account. The law allows the Town to increase the exemptions by up to 100% as indicated on the following schedule, which are recommended by the Board of Assessors:

Description	Ch.59, Sec.5 Clause	FY2021 #Granted	Basic Amount Exempted	Proposed Amount Exempted
Surviving Spouse	17D	2	\$175	\$350
Veteran (10% Disability)	22	41	\$400	\$800
Veteran (loss of one hand, foot or eye)	22A	0	\$750	\$1,500
Veteran (loss of two hands, feet or eyes)	22B	0	\$1,250	\$2,500
Veteran (special housing)	22C	0	\$1,500	\$3,000
Veteran (certain widows of soldiers)	22D	0	\$250	\$500
Veteran (100% disability, cannot work)	22E	10	\$1,000	\$2,000
Blind	37A	27	\$500	\$1,000
Elderly	41C	8	\$500	\$1,000

TO BE VOTED BY ROLL CALL OF THE SELECT BOARD:

That the Town elect to establish an additional property tax exemption for fiscal year 2022 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.

ADVISORY COMMITTEE'S CONSIDERATIONS

BACKGROUND

This Article would allow the Town to continue its current practice of increasing state-mandated property tax exemptions for several classes of qualifying taxpayers, including veterans with a 10% or greater disability, surviving spouses, blind taxpayers, and low-income elderly taxpayers. The town is required to give these taxpayers, if eligible, a basic exemption whose amount is specified in Chapter 59, Section 5 of the Massachusetts General Laws and which is partially reimbursed by the state. The Town also has the option to increase these exemptions by any amount up to 100%. The increase must be uniform across all the exemptions, and the increased exemption amount, per taxpayer, may be limited by the change in the taxpayer's bill over their previous fiscal year's tax liability.

DISCUSSION

The proposed increases require annual authorization and have been approved by Town Meeting each year since FY1989. It is hard to imagine the Town denying, for instance, disabled veterans and fixed-income elderly the additional exemptions allowed under state law. The Assessors estimate that the cost for FY2022 will be approximately \$44,250 and has already built a reserve for this purpose in the tax abatement overlay reserve account.

ARTICLE xx ARTICLE

Submitted by: Select Board

To see if the Town will vote (i) to appropriate \$1,903,000, representing a portion of the net premium received upon the sale of the Town's \$153,365,000 General Obligation Municipal Purpose Loan of 2020 Bonds dated March 19, 2020, to pay a \$1,903,000 portion of the cost of the Driscoll School Reconstruction project authorized in the amount of \$115,300,000 by a vote of the Town passed November 19, 2019 (Article 4), excluded from the limitations of Proposition 2½, so-called, on December 10, 2019 (Question 1) (the "Driscoll School Project"), thereby reducing the amount authorized to be borrowed for such project by a like amount, (ii) to appropriate \$4,145,750, representing a portion of the net premium received upon the sale of the Town's \$159,520,000 General Obligation Municipal Purpose Loan of 2021 Bonds dated March 24, 2021, to pay a \$4,145,750 portion of the cost of the Driscoll School Project, thereby reducing the amount authorized to be borrowed for such project by a like amount and (iii) to take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The appropriation vote for the Driscoll School did not include language allowing the Town to apply the bond premium received as part of the bond sale to the project. This article allows the Town to retroactively apply the net premium received from the General Obligation bonds issued for the Driscoll School project to the costs of the project thereby reducing the overall cost of the project.

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BCE:BN&amp;C BWN 12.

ARTICLE XXXXXXXXXXX ARTICLESubmitted by: Select Board

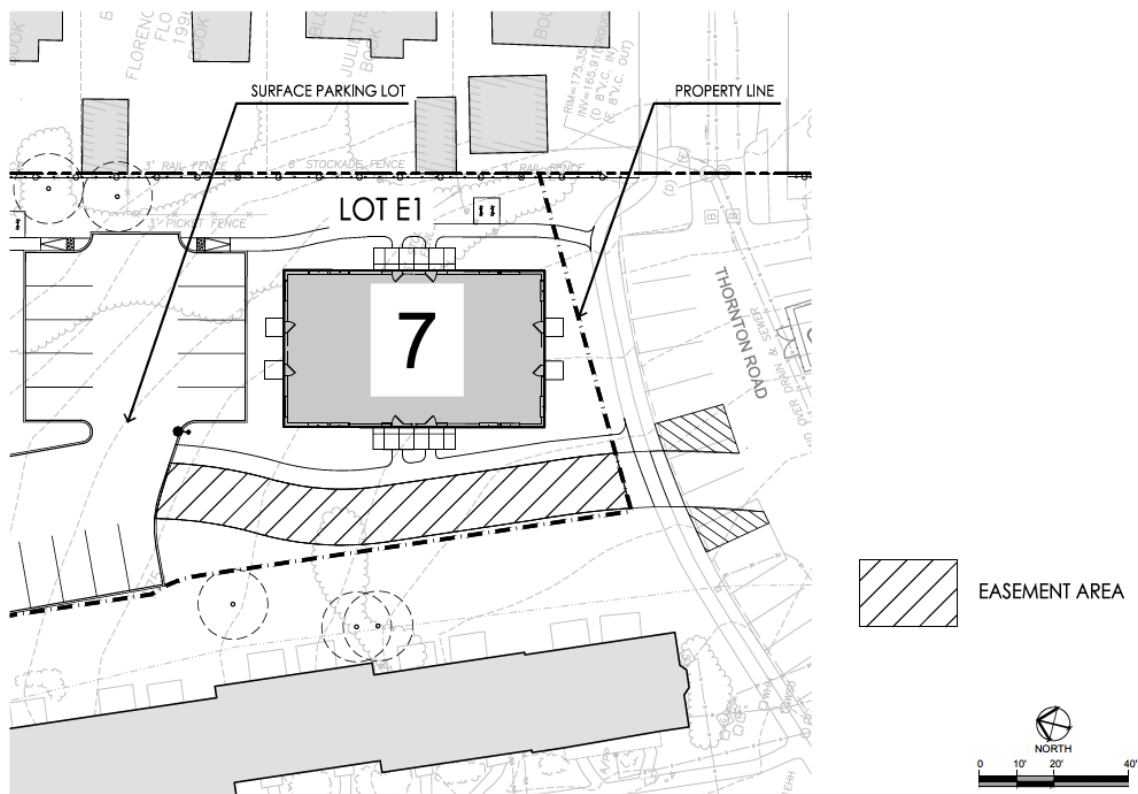
To see if the Town will vote to authorize the Select Board, on such terms and conditions that are in the best interest of the Town, to accept:

- (1) a grant of an easement from ROSB Realty LLC, or one of its successors or assigns, for ingress and egress in, over and through land between Thornton Road and land described as the Lot E1 Surface Parking Lot, more specifically shown as the “Easement Area” on the diagram below. Said easement is further described in the Emergency Access Easement Agreement previously approved by the Select Board contingent on subsequent Town Meeting authorization. For reference, Lot E1 is located on Parcel 3B shown on a plan entitled “Hancock Village, Plan of Land in Brookline/Boston, MA (Norfolk/Suffolk County) Scale 1” = 100’, Date: September 20, 2018 by Precision Land Surveying, Inc.” recorded with the Norfolk Registry of Deeds (the “**Registry**”) at Plan Book 684 of 2019, at Page 61.

and

- (2) the restrictive covenant in favor of the Town between the Town and The Residences of South Brookline LLC and ROSB Realty LLC prohibiting the construction of any new structures or paved surfaces not permitted by the Comprehensive Permit (issued to The Residences of South Brookline LLC and filed with the Brookline Town Clerk on February 20, 2015 and recorded with the Registry on November 1, 2019 in Book 37307, Page 241) on the property shown as Parcels 3A, 3B, 3C and 3D on that certain plan entitled “Hancock Village, Plan of Land in Brookline/Boston, MA (Norfolk/Suffolk County) Scale 1” = 100’, Date: September 20, 2018 by Precision Land Surveying, Inc.” recorded with the Registry at Plan Book 684 of 2019, at Page 61-66. The restrictive covenant is further described in the Declaration of Restrictive Covenant previously approved by the Select Board contingent on subsequent Town Meeting authorization.

x-2



Or act on anything relative thereto.



PETITIONER’S ARTICLE DESCRIPTION

This article will authorize the Select Board to accept two interests in real estate from ROSB Realty LLC and The Residences of South Brookline LLC (collectively, the “**Developer**”) in connection with the Developer’s construction of the Residences of South Brookline 40B development. The conveyance of these two interests by the Developer to the Select Board are requirements under the Developer’s Comprehensive Permit filed with the Brookline Town Clerk on February 20, 2015 and recorded with the Norfolk Registry of Deeds on November 1, 2019 in Book 37307, Page 241 (as modified, the “**Comprehensive Permit**”), and both interests are memorialized in corresponding recordable instruments, previously voted on and executed by the Select Board contingent on subsequent Town Meeting authorization.

The Emergency Access Easement Agreement is a non-exclusive easement allowing fire trucks, other emergency vehicles and other public emergency apparatus to access a surface parking lot and appurtenant buildings directly from Thornton Road, as contemplated by Conditions 28 and 43(f) of the Comprehensive Permit.

The restrictive covenant is intended to prohibit construction of any new structures or paved surfaces not permitted by the Comprehensive Permit on the property shown as Parcels 3A, 3B, 3C and 3D on that certain plan entitled “Hancock Village, Plan of Land in Brookline/Boston, MA (Norfolk/Suffolk County) Scale 1” = 100’, Date: September 20, 2018 by Precision Land Surveying, Inc.” recorded with the Norfolk Registry of Deeds at Plan Book 684 of 2019, at Page 61-66, as contemplated by Conditions 17 and 43(f) of the Comprehensive Permit. For ease of reference, this is the area surrounding the large, multi-family component of the Residences of South Brookline development as well as the northern edge of Hancock Village.

Copies of the Emergency Access Easement Agreement and the Declaration of Restrictive Covenant will be posted online alongside the Warrant.

SELECT BOARD’S RECOMMENDATION

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ADVISORY COMMITTEE’S RECOMMENDATION

ARTICLE x

21 MAR 2 PM 1:17

x ARTICLE

Submitted by: Advisory Committee

To see if the Town will:

## A.) Fiscal Year 2022 Budget

Appropriate the sums requested or proposed by the Select Board or by any other officer, board or committee, or any other sum or sums, for the fiscal year 2022 budget; without limiting the foregoing, appropriate the sums necessary for all town expenses, including the snow and ice budget, debt and interest, and operating expenses; fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with an option to purchase or installment purchase of equipment; appropriate to a stabilization fund as provided for in General Laws Chapter 40, Section 5B; authorize the continuation of all revolving funds in accordance with General Laws, Chapter 44, Section 53E½ and all Enterprise Funds in accordance with General Laws, Chapter 44, Section 53F½; allocate available free cash; provide for a reserve fund; and establish the requirements for transfers among appropriations, interfund transfers, transfers for the purposes of salary adjustments, filling vacant positions and budgetary reporting.

## B.) Fiscal Year 2022 Special Appropriations

Appropriate sums of money for the following special purposes:

1. Appropriate \$130,000, or any other sum, to be expended under the direction of the Town Clerk with any necessary contracts over \$100,000 to be approved by the Select Board for voting machines.
2. Appropriate \$900,000, or any other sum, to be expended under the direction of the Police Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades/replacement of the Police and Fire Department's radio infrastructure.
3. Appropriate \$140,000, or any other sum, with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for parking meter technology upgrades.
4. Appropriate \$140,000, or any other sum, with any necessary contracts over \$100,000 to be approved by the Select Board, to be expended under the direction of the Commissioner of Public Works, for studies to upgrade the Washington/Harvard/Kent/Davis traffic signal.
5. Appropriate \$50,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, for Accessible Pedestrian Signals.

## 10.A.

May 19, 2021 Annual Town Meeting

x-2

6. Appropriate \$1,830,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of streets.
7. Appropriate \$344,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of sidewalks.
8. Appropriate \$600,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for design work related to the Washington Street Rehabilitation and Complete Streets Program.
9. Appropriate \$400,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for storm water improvements.
10. Appropriate \$2,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water system improvements.
11. Appropriate \$280,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water meter transmission unit (MTU) replacements.
12. Appropriate \$3,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for wastewater system improvements.
13. Appropriate \$915,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Murphy Playground.
14. Appropriate \$1,150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the renovation of Robinson Playground.
15. Appropriate \$280,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for studies related to the environmental restoration of Willow Pond.
16. Appropriate \$260,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the renovation of playground equipment, fields, and fencing.

17. Appropriate \$165,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of Town and School grounds.
18. Appropriate \$240,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board and the Tree Planting Committee, for the removal and replacement of trees.
19. Appropriate \$85,000, or any other sum, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.
20. Appropriate \$165,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for energy conservation projects in Town and School facilities.
21. Appropriate \$750,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for building envelope / fenestration repairs to Town and School facilities.
22. Appropriate \$175,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for fire alarm upgrades in Town and School facilities.
23. Appropriate \$170,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Board of Select Board and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.
24. Appropriate \$1,733,928, or any other sum, to be expended under the direction of the School Superintendent, with any necessary contracts to be approved by the Select Board and School Committee, for the expansion of classroom capacity in various schools.

C.) Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, borrowed or provided by any combination of the foregoing, and authorize the leasing, leasing with an option to purchase, or the installment purchase of any equipment or any capital items; and authorize the Select Board, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants, gifts, reimbursements, and aid from both federal, state, and other sources and agencies for any of the purposes noted in this Article, or act on anything relative thereto.

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May 19, 2021 Annual Town Meeting

x-4

PETITIONER'S ARTICLE DESCRIPTION

This is the annual appropriations article for FY2022. Included in this omnibus budget article are operating budgets, special appropriations, enterprise funds, revolving funds, and conditions of appropriation. This is the culmination of work that officially began with the publication of the Town Administrator's Financial Plan on February 16<sup>th</sup>. The proposed budget has since been reviewed by numerous sub-committees of the Advisory Committee, the full Advisory Committee, and the Select Board. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

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21 MAR 4 4:10:53

**MOTION OFFERED BY DEBORAH BROWN AND AUTHUR CONQUEST**

Moved: To amend the budget adopted by Town Meeting on 6/30/2020:

**ARTICLE****Fund Transfers**

TM 5/221 Increase/(decrease)

Reserve Fund \$1,707,228 (\$672,000) Unclassified. Select Person's contingency fund \$15,000

STM Balance \$1,035,228

That these funds, an appropriation of \$672,000 transferred from the appropriated reserve fund to the so called select person's or Town Administrator contingency be distributed as follows:

\$672,000 earmarked for the following projects:

- \$140,000 to negotiate contracts with internet providers for distance learning for BHA students, remote health care, remote resident services and isolation
- High Street - \$625,000 for repairs to kitchens at High Street, Veterans, Trustman and Egmont
  - This figure is calculated at \$25,00 per unit to repair the units in most need of repairs
    - Only 25 of 375 units or .06 of the units will be partially updated
- Egmont Street - \$47,000 to cover unpaid tenant rents

Total for BHA: **\$672,000**

**Budget Explanation and Analysis Funding Source:**

We accept that the funding for these new uses has to come from somewhere. The Town's Reserve Fund is one such source. The Reserve Fund is a sum of money appropriated at Town Meeting to be used at the discretion of the AC in conjunction with Select Board to cover extraordinary or unforeseen expenses that arise during the fiscal year. The creation and use of the Reserve Fund is specified in Chapter 40 §6 of the Massachusetts General Laws. More precisely, **the reserve fund is to be used for "...extraordinary or unforeseen expenditures"** as determined by AC. Clearly, a pandemic meets the definition of extraordinary or unforeseen.

**The budget amendment moves: (\$672,000), which would leave 1,035,228 in the Reserve Fund.**

**Brookline Housing Authority**

Michael Alperin  
Executive Director  
90 Longwood Ave #1 Brookline, MA 02446 malperin@brooklinehousing.org

## BHA Funding

**RESOLUTION REGARDING BABCOCK ST PARKING LOT AFFORDABLE HOUSING STUDY COMMITTEE**

## Signatures

Name	Signature	Address	Precinct
1. Deborah Brown	<i>Deborah Brown</i>	26 Parkman, #1	1
2. Julie Buchinski	<i>Julie Buchinski</i>	26 Parkman St #1	1
3. Eugene Tamayo	<i>Eugene Tamayo</i>	30 PARKMAN ST #2	1
4. Inga Shealter	<i>Inga Shealter</i>	30 Pleasant St #45	2
5. Anne Greenwald	<i>Anne Greenwald</i>	6 Gibbs St.	8
6. Jeremy Bloch	<i>Jeremy Bloch</i>	6 Gibbs St	8
7. Christina Kovach	<i>Christina Kovach</i>	99 Beals St	8
8. Paul Romaner	<i>Paul Romaner</i>	99 Beals St	8
9. Jonathan Klori	<i>Jonathan Klori</i>	150 St. Paul #406	10
10. Amy Schottenfels	<i>Amy Schottenfels</i>	150 St. Paul #406	10
11. LUCIANA SCHACHNIK	<i>Luciana Schachnik</i>	7 CLARK RD.	6
12. JULIA SCHACHNIK	<i>Julia Schachnik</i>	7 CLARK RD	6
13. GILSON Schachnik	<i>Gilson Schachnik</i>	7 Clark Rd	6
14.			
15.			
16.			
17.			
18.			
19.			
20.			



ARTICLE XX

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
21 MAR 3 PM 12:25

XXXXXXXXX ARTICLE

Submitted by: Indigenous People Celebration Committee

*Lead petitioner: Maya Norton, Works Rd., mayanorton2014@gmail.com*

To see if the Town will amend section 2.1.11 of the Town by-laws by adding a new fourth paragraph to read as follows:

"Following the singing of the National Anthem, an acknowledgement of the history of Indigenous people in Brookline shall be read by the chair or a designee of the Indigenous People Celebration Committee."

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article amends the General By-Laws Section 2.1.11 Town Meeting Procedures to include a reading of a Land Acknowledgement statement at the beginning of the first or opening session of any annual or special Town Meeting after the singing of the National Anthem. This acknowledgement will highlight the devastating impact of settler colonialism in Brookline, as well as offer recognition of and respect for the Indigenous land that Brookline now occupies, and acknowledge the atrocities that were perpetrated here.

**Why is this important?**

The town we call Brookline occupies the Indigenous land of the Massachusett people, originally known as *Wôpanahkeet* or Dawnland.

We, as Brookline residents, need to acknowledge that we have not properly learned the history of the early years of the founding of what is now the United States, that included the genocide and the attempt at the total annihilation of Indigenous peoples and their cultures. This is an uncomfortable history for many of us. Reconciling with our past and adding the voices of those who have been long ignored and silenced is important for all of us. The land our town now occupies was the home of Indigenous peoples for thousands of years before Europeans made their first landfall in the "New World" and began the appropriation of Indigenous land.

We need to recognize that the forced removal of the original occupants of the land paved the way for large tracts of land that were subsequently used for farming. Such lands needed many laborers, thus, leading to enslavement of both Native peoples and Africans, but mainly Africans since the Native population had in large part been killed or forcibly expelled and could not be pressed into slavery.

Here in Brookline, seven Indigenous people and approximately 83 Africans were enslaved. In addition, many members of the town profited greatly from trade with the Caribbean colonies where large numbers of people of African descent were enslaved to provide the labor needed on the sugar plantations. The sugar crop was so lucrative that plantation owners in the Caribbean did not want to grow their own food crops and relied on the importation of food from the Colonies, including Massachusetts. In addition, there were those in Brookline, as well as New England as a whole, who were engaged in the kidnapping, imprisoning and selling of human beings.

Colonial records in the Brookline library document some of the areas within Brookline where Native peoples lived. The historical record documents that seven Native men were sold into slavery in the Caribbean by members of the Brookline community. Their wives were given the choice of remaining enslaved here or accompanying their husbands to the Caribbean to be enslaved there with no assurance that they would be allowed to remain together. It is of note that the average remaining life span of the enslaved in the Caribbean was short, on the order of seven years.

**How do we reconcile the history of our past with our vision of ourselves and our best intentions?**

As is true for the history of the United States, the history of Brookline has only recently started to acknowledge that there were people living on this land prior to the arrival of the immigrants from Europe. Due to this recent acknowledgement, the Brookline School Committee and the School Department, following the lead of Students Against Institutional Racism, have been updating the history curriculum for almost three years to reflect this new interest in exploring a fuller understanding of our collective past. Only when our whole community embraces the harsh truths of our past, can we, as a collective society, move forward to create together a more just and inclusive future.

**Land Acknowledgement Warrant Article**  
Signature Sheet

This article amends Brookline's General By-Laws Section 2.1.11 Town Meeting Procedures to include the following:  
*"Following the singing of the National Anthem, an acknowledgement of the history of Indigenous people in Brookline shall be read by the chair or a designee of the Indigenous People Celebration Committee."*

The signatures of 10 registered voters of the Town of Brookline are required to submit this Warrant Article.

	Name	Signature	Address	Precinct
✓ <sup>1</sup>	Raul Fernandez	Raul Fernandez	99 Beals Street	8
<sup>2</sup>	Christina Kovach	Christina Kovach	99 Beals St.	8
✓ <sup>3</sup>	Anne Greenwald	Anne Greenwald	6 Gibbs St.	8
✓ <sup>4</sup>	JEREMY BLOCH	Jeremy Bloch	6 Gibbs St.	8
✓ <sup>5</sup>	Tracie Burns	Tracie Burns	100 Beals	8
✓ <sup>6</sup>	Edward L. Loehler	Edward L. Loehler	106 Beals St.	8
✓ <sup>7</sup>	Leslie Spanners	Leslie Spanners	106 Beals St	8
✓ <sup>8</sup>	LUCIANA SCHACHNIK	Luciana Schachnik	7 Clark Rd	6
✓ <sup>9</sup>	GILSON SCHACHNIK	Gilson Schachnik	7 Clark Rd.	6
✓ <sup>10</sup>	Deborah Brown	Deborah Brown	26 Parkman	1
✓ <sup>11</sup>	Bonnie Bastien	Bonnie Bastien	32 Oakland Rd	5
✓ <sup>12</sup>	Naya Norton	Naya Norton	96 Naples Rd	8
13				
14				
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19				
20				

# 10.A.

## Land Acknowledgement Warrant Article Signature Sheet

This article amends Brookline's General By-Laws Section 2.1.11 Town Meeting Procedures to include the following:  
"Following the singing of the National Anthem, an acknowledgement of the history of indigenous people in Brookline shall be read by the chair or a designee of the Indigenous People Celebration Committee."

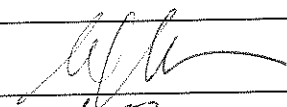


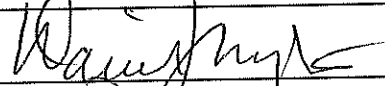
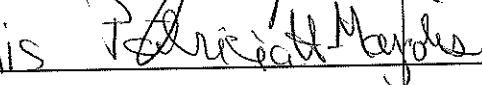
The signatures of 10 registered voters of the Town of Brookline are required to submit this Warrant Article.

	Name	Signature	Address	Precinct
✓ 1	Cornelia van der Ziel	Cornelia van der Ziel	100 Wolcott Rd	15
✓ 2	Kenneth Kleene	[Signature]	100 Wolcott Rd	15
✓ 3	ANDREI JOSEPH	Andrei Joz	69 Wolcott Road	16
✓ 4	Pam Rogers	Pam Rogers	69 Wolcott Rd	16
✓ 5	Barbara Weiffenbach	Barbara Weiffenbach	127 Wolcott Rd	16
✓ 6	VIRGINIA B. CONQUEST	Virginia B Conquest	115 TAPPAN ST	6
✓ 7	Arthur Conquest	Arthur Conquest	115 Tappan St	6
✓ 8	Deborah B. Onie	Deborah B. Onie	32 Marshall St.	3
✓ 9	Laurene M. Onie	Laurene M. Onie	32 Marshall St.	3
✓ 10	Ruthann Sneider	Ruthann Sneider	30 Perry St.	6
11				
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15				
16	21 MAR 3 PM 12:25			

**Land Acknowledgement Warrant Article**  
Signature Sheet

This article amends Brookline's General By-Laws Section 2.1.11 Town Meeting Procedures to include the following:  
*"Following the singing of the National Anthem, an acknowledgement of the history of indigenous people in Brookline shall be read by the chair or a designee of the Indigenous People Celebration Committee."*

The signatures of 10 registered voters of the Town of Brookline are required to submit this Warrant Article.

	Name	Signature	Address	Precinct
✓ 1	Michael Goldstein		24 Stedman St Brookline MA 02446	8
✓ 2	Hadassah Margolis		24 Stedman St. Brookline 02446	8
3	<del>Daniel J. Margolis</del> Daniel J. Margolis			
✓ 4	Daniel J. Margolis		28 Stedman St	8
✓ 5	Patricia MARGOLIS		28 Stedman St	8
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## Warrant Article Signatures

Signatures of ten registered voters are required. It is recommended that at least 15 or more be collected. Each signature needs:

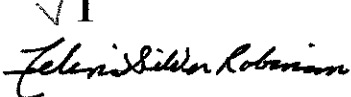
- to be signed in ink (wet)
- signers name also printed
- signers voting address.

We, the undersigned registered voters of the Town of Brookline, support the attached Warrant Article seeking ...(Add brief explanation)

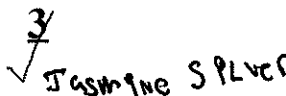
SIGNATURE

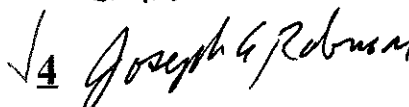
PRINTED NAME


VOTING ADDRESS

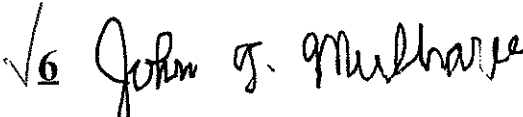
✓1  
 Felina Silver Robinson 41 Brook street, Apt. 1

✓2  
 Ariana Silver 41 Brook St, Apt. 1

✓3  
 Jasmine Silver 41 Brook Street Apartment 1

✓4  
 Joseph E Robinson 41 Brook St Apt 1

✓5  
 Tanisha-Marie Mucha 41 Brook St apt 3  
 Brookline MA 02445

✓6  
 John T. MULHANE 45 Brook St #2 Brookline 02445

7

8

9

SZ:ZIMB:WIZ:

We certify that the above (31) number of signatures are those of voters registered in the Town of Brookline.

10

Proposed Warrant Article to require all recommendations included in the Combined Reports to  
include documentation of roll call votes  
Version February 2, 2021

RECEIVED  
TOWN OF BROOKLINE  
2021 FEB 12 A 10:33

Submitted by: Mike Toffel, TMM 8 and Neil Gordon, TMM1

To see if the Town will amend Articles 2.5.2 and 2.2.6 of the Town's General By-laws as follows (language to be stricken appearing in strikeout, language to be added appearing in underline):

#### SECTION 2.5.2 COMBINED REPORTS

The explanation and relevant data submitted by the petitioners for a petition article shall be included, together with article, in the combined reports. The Select Board and the Advisory Committee (or in the alternative to the full Advisory Committee a subcommittee of the Advisory Committee) each shall hold at least one duly noticed public hearing prior to a final vote of the Select Board or the Advisory Committee, as the case may be, on any article in the Warrant. The Select Board and the Advisory Committee shall prepare written reports, stating their recommendations and the reasons therefor, for all articles in the Warrant for a Town Meeting. The reports shall be included in the combined reports to be delivered or mailed as follows:

The Select Board shall cause one copy of the combined reports to be delivered or mailed not later than the seventh day prior to each special Town Meeting and not later than the fifteenth day prior to the start of each Annual Town Meeting, to the residence of every elected officer, Town Meeting Member and member of the Advisory Committee, and to the residence of every appointed officer, resident, real estate owner and town employee who requested, in writing, a copy of that combined reports. The combined reports shall contain each article in the warrant for such Town Meeting followed by the report of the Select Board on such article and then the report of the Advisory Committee on such article and every report made, not later than the twenty-second day prior to such Town Meeting and after the twenty-second day prior to the previous Town Meeting, by a Special Committee created by a Town Meeting or the Moderator.

The Combined Reports, and any supplement thereto, shall include, with each recommendation of the Select Board any Town board, committee, or commission, a roll-call showing the vote of each member, and shall include, with each recommendation of the Advisory Committee such information as is required by Article 2.2.6 Recorded Votes. When a minority report is presented by any Town board, committee, or commission, the Combined Reports, and any supplement thereto, shall identify the members supporting the minority report.

The report of the Select Board on the article at an Annual Town Meeting providing for termination and close-out of prior special appropriations shall include a statement from the Comptroller listing each account for such an appropriation as falls within the scope of the article, the purpose of the appropriation, and the unexpended balance as of the last day of March in the year of said Annual Town Meeting.

#### SECTION 2.2.6 RECORDED VOTES



(i) Whenever the Advisory Committee shall have voted on a recommendation ~~to the Town, and unless such vote is unanimous,~~ the record of such vote shall accompany any report of such recommendation ~~to the Town and shall be included in the minutes of the Advisory Committee,~~ in each case showing the date of such vote and those members who voted in favor, opposed, or abstained.

(ii) Whenever the Advisory Committee shall have voted on a transfer of funds, ~~and unless such vote is unanimous,~~ the record of such vote shall be included in the minutes of the Advisory Committee, in each case showing those members who voted in favor, opposed, or abstained.

or act on anything relative thereto.

We certify the above (10) signatures are those of voters registered in the Town of Brookline.

PETITIONER'S ARTICLE DESCRIPTION

The Combined Reports include recommendations from the Select Board, Advisory Board, and many other Boards, Committees, and Commissions to inform Town Meeting Members about warrant articles. Just as the Select Board and Advisory Committee are required by the Town's bylaws to include roll call votes in their recommendations in the Combined Reports, and the School Committee routinely does so, this article calls for all of the Town's boards, committees, and commissions to do so. This includes, for example, recommendations issued by boards appointed by the Select Board, committees appointed by the Moderator, and the School Committee and Board of Library Trustees elected by voters. It also calls on all of these bodies, when issuing a minority report, to list the members supporting the minority report.

The rationale supporting this article are much the same as those justifying Article 30 in the 2020 Special Town Meeting that called for requiring all Advisory Committee recommendations (except unanimous ones) to include recorded votes, and which passed Town Meeting by a wide margin (203 yes vs 17 no, with 8 abstentions):

- Town Meeting and the public have the right to know how the members of the town's boards, committees, and commissions have voted on the recommendations presented.
- Knowing the vote of each member of these bodies can provide additional contextual information that can be valuable to Town Meeting Members.
- This would further increase transparency and help Town Meeting to make the best decision possible on each Article in the Warrant.

This article does not provide an exemption for unanimous votes. Why? Because recording the votes of each member—even when votes are unanimous—creates a public record documenting the votes. Providing an exemption for unanimous votes would require anyone seeking to learn who actually voted for each recommendation to obtain historical records to learn (1) who the members were of a particular board, committee, or commission at a particular moment of time, (2) the date of the particular meeting at which the vote was taken; (3) obtain access to meeting minutes to learn which members attended that meeting, and who cast a vote or abstained; such a process imposes too much of a burden on the public merely seeking transparency, and such records are difficult to access.

This proposal deletes from the third paragraph of Section 2.5.2 “and shall include, with each recommendation of the Advisory Committee such information as is required by Article 2.2.6 Recorded Votes” because that section becomes redundant should this proposal pass.


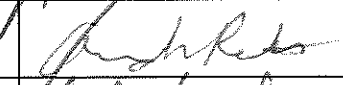



This proposal deletes from the Advisory Committee section of the bylaws, Section 2.2.6 Recorded Votes subsections (i) and (ii), the exemptions from recording unanimous votes, for these reasons—and to align its terms with Section 2.5.2.

Moreover, this proposal widens the scope of Section 2.2.6(i) by deleting “the Town”, thereby requiring recorded votes for all recommendations Advisory Committee makes. It also adds a requirement that such recorded votes should be included in the meeting minutes.

## Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

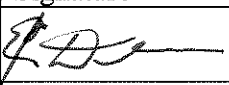
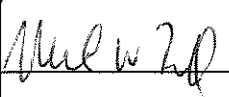
	Signature	Printed name	Address
1	✓ 	Tracie Burns	100 Beals St.
2	✓ 	Andrea Roberts	122 Naples Rd
3	✓ 	MARK GIGLIETTO	25 Green St
4	✓ 	Deborah Fung	43 Beals St
5	✓ 	Archon Fung	43 Beals St
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RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
2021 FEB 12 A 10:37

## Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
1 ✓		ERIN DEEMER	25 ABBOTSFORD ROAD
2 ✓		MICHAEL TOFFEL	25 Abbottsford Road
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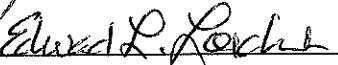
10.A.

For Toffel

Proposed Warrant Article to require all recommendations ...  
Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
1		Edward L. Lorchler	106 Beaks St,
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## Warrant Article signature page

The following registered Brookline voters support the attached submitted article



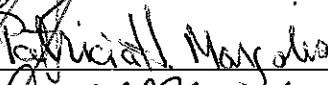
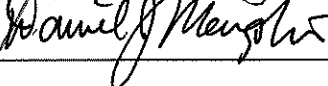
*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
1	<i>Barbara C. Scott</i>	<i>Barbara C. Scott</i>	<i>26 Crowninshield Rd.</i>
2			
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## Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

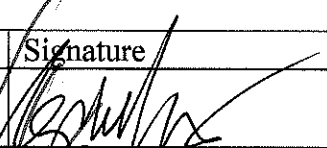
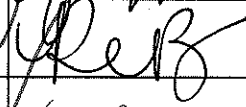

	Signature	Printed name	Address
1		HADASSAH MARGOLIS	24 STEDMAN ST. BROOKLINE 02446
2		Michael Goldstein	28 Stedman St Brookline 02446
3		Patricia MARGOLIS	28 Stedman St BIRK
4		Daniel S. Margolis	28 Stedman St. Brookline, MA 02446
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RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
2021 FEB 12 A 10:34

## Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
1		Raphael Bueno	39 ADAMS ST
2		Rebecca Bueno	39 Adams St
3		Kate Povelman	39 Adams St
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petitioner: CDICR (Point of contact: Mariah Nobrega, 6179354985,  
mariah.nobrega@gmail.com)

## WARRANT ARTICLE XX

Language amended is in **bold**; deletions are in ~~strikeout~~;) )

21 MAR 1 PM 12:59

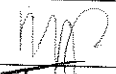
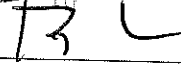
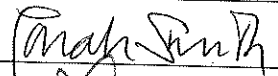

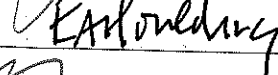
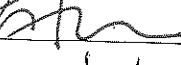
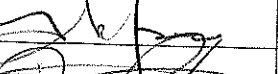
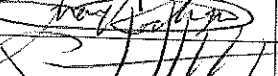
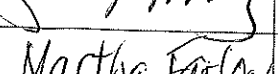
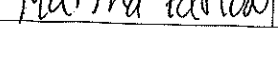
VOTED: To amend Bylaw 3.14 as follows:

### SECTION 3.14.8 EFFECTIVE DATE OF DECEMBER 12, 2019 AMENDMENTS

"The amendments, as indicated in strikethrough, bold and underlined, adopted on December 12, 2019, become effective July 1, 2021~~2022~~."

### EXPLANATION

The CDICR requests additional time to complete the revision of the bylaw as contemplated by Town Meeting in its approval of Warrant Article 24 from the Fall 2019 Special Town Meeting, due to the COVID-19 pandemic. The request is made to extend the deadline by one full year, though less time will hopefully be needed. The only change that has been made to this Warrant Article from the one approved by Town Meeting in Fall 2019 is the modification of the applicable date, from July 1, 2021 to July 1, 2022. Section 3.14.8 was not in the language presented at Town Meeting but was in the official form of the petition submitted for approval to the Attorney General by the Town Clerk.

Name (Print)	Signature	Address	Precinct
Marian Nobrega		33 Bowker St	4
Frederick S Perry		32 Bowker St	4
Jarah Smith		32 Bowker St	4
Joseph Finkhouse		31 Bowker St	4
Elizabeth Houlding		31 Bowker St.	4
Nina Fineman		31 Bowker St	4
Alisa Nagano		30 Bowker St.	4
Joan Rodriguez		" 30 Bowker	4
Pat Murray		30 Bowker	4
Martha Farlow		8 Bowker	4

Submitted by: Moderator's Committee on Short-Term Rentals. Paula Friedman, chair

PKF@BU.EDU

To see if the Town will amend the Zoning By-law as follows:

**1. By amending §2.19, "S" Definitions, as follows:**

21 MAR 1 PM 1:32

**Inserting the following:**

1. Short-Term Rental (or "STR") – The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment.

2. Short-Term Rental Operator – Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.
3. Short-Term Rental Unit – A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

**And increasing each subsequent section number by 3.**

**2. By amending §2.16, "P" Definitions, as follows:**

**Renumbering the five existing sections titled "PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL", "PARKING GARAGE OR PARKING AREA, RESIDENTIAL", "PORCH, ENCLOSED AND UNENCLOSED", "PRIVATE CLUB OR LODGE", and "PROFESSION, RECOGNIZED" as sections 1, 2, 3, 5, 6 respectively and inserting the following after "3. PORCH, ENCLOSED AND UNENCLOSED":**

4. Primary Residence – Any property at which a resident resides for at least 183 days of the calendar year.

**3. By amending §4.07, Table of Use Regulations, as follows:**

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I

51C. Short-Term Rentals in possession of a valid Town Certificate of Registration and in accordance with §4.14 only.	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
--	------------	------------	------------	------------	------------	------------	------------	------------	------------

**4. By amending the Use Regulations by adding the following section, §4.14, Short-Term Rentals:**

**§4.14 – SHORT-TERM RENTALS**

**1. Purpose**

This section is intended to protect the health and safety of visitors and residents, ensure that the primary use of these properties remains as a residence, and to minimize the effect Short-Term Rentals have on the character and livability of residential neighborhoods and the well-being of surrounding residents.

**2. Applicability**

- a. The requirements of this section shall apply to any Short-Term Rental. No property shall be offered as a Short-Term Rental except in compliance with each of the provisions of this By-Law.
- b. Nothing in this By-Law shall be construed to make the Town responsible for compliance with or enforcement of condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

**3. Requirements**

Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes, including, but not limited to, the Town's General By-law entitled "Short-Term Rentals".

**4. Severability**

If any provision(s) of this section is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.


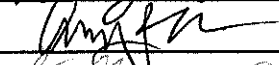
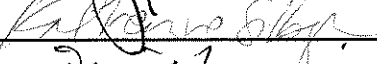
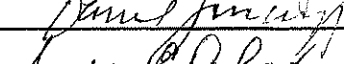
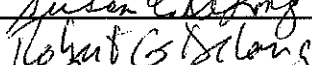
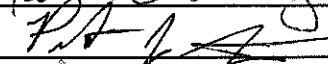


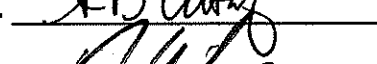


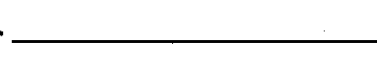
**These amendments to the Zoning by-law shall take effect on January 1, 2022.**

Or act on anything relative thereto.

## Warrant Article signature page

SIGNATURES (Ten registered voters required)

The following registered Brookline voters support the attached submitted article.

	<u>SIGNATURE</u>	<u>PRINT NAME</u>	<u>ADDRESS</u>
1.		Paul J. Warren	71 Carlton St.
2.		Amy R. Ennin	71 Carlton Street
3.		Katherine Silbaugh	68 Amory St.
4.		DANIEL J. DAVIS	68 AMORY ST.
5.		Susan E. DeLong	3 Worthington Rd
6.		Robert G. DeLong	3 Worthington Rd.
7.		Patrick Maguire	18 Mohamouth Court
8.		ANA ALBUQUERQUE	24 EUSTON ST APT #2
9.		Rui ALBUQUERQUE	24 EUSTON ST #2
10.		SUMMER LATIF	24 EUSTON ST. #1
11.		Raymond Latif	24 EUSTON ST #1
12.		Neil Gordon	87 1st St
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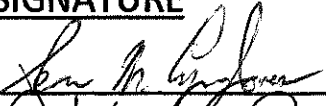
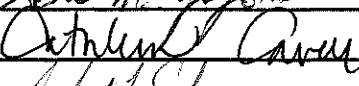

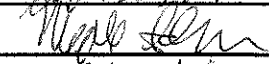


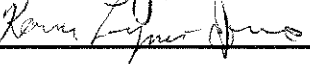
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Warrant Article signature page

SIGNATURES (Ten registered voters required)

The following registered Brookline voters support the attached submitted article.

	<u>SIGNATURE</u>	<u>PRINT NAME</u>	<u>ADDRESS</u>
1.		Sean M. Lynn-Jones	53 Monmouth St.
2.		Cathleen Carver	27 Monmouth Ct
3.		Robert Schram	47 Monmouth St
4.		Nicole Schram	47 Monmouth St
5.		Richard Garver	23 Monmouth Ct
6.		Penny Carver	23 Monmouth Court
7.		Raven Lynn-Jones	53 Monmouth St
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PKF@BU.EDU

Explanation of Warrant Articles  
Moderator's Committee on Short-Term Rentals

*Summary*

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The Moderator's Committee on Short-Term Rentals is submitting three Warrant Articles for the May 2021 Annual Town Meeting. These Articles are much-revised versions of Articles 9, 10, and 11 from the November 2020 Town Meeting. The committee revised the Articles to address questions and concerns raised by Town Meeting members and Brookline residents. The Articles would amend the zoning and general by-laws to allow short-term rentals in all zoning districts. Short-term rentals would be defined as rentals for 27 or fewer consecutive days. Short-term rental units could be rented for up to 90 days per year. Operators would be required to be permanent residents and to own the rented units, but they would not be required to be present while the unit was being rented. The Articles would all require that operators obtain a certificate from the Town, that units be inspected to ensure health and safety, and that operators confirm that rental of the unit is consistent with any relevant condominium association by-laws.

The committee's recommendations are intended to allow the safe operation of short-term rentals in Brookline, to prevent the operation of large numbers of investor-owned professionally managed short-term rental units, and to minimize any negative impact on Brookline residents.

*Background*

Short-Term Rentals (STRs) are a relatively new concept. Although for many decades some Brookline homeowners may have rented rooms to short-term paying guests, in recent years STRs have become more numerous and more prominent as a result of the convenience of online booking platforms. The best-known of these platforms is Airbnb, although many others exist, including VRBO, booking.com, and Homeaway.

Prior to the Covid-19 pandemic, Brookline's Department of Planning and Community Development estimated that 300–400 STRs were operating in Brookline. Subsequent data provided by the Massachusetts Department of Revenue (DOR)<sup>1</sup> indicates that approximately 265 operators have registered with the DOR to operate a short-term rental in Brookline. Presently, the operation of an STR in Brookline is prohibited because Short-Term Rental is not explicitly listed in the Zoning By-Law's Table of Use Regulations (Table 4.07). Table 4.07 is used by the building commissioner to determine what is allowed. Enforcement is currently handled by the Building Department on a complaint-driven basis and some STRs have been shut down as a result. It is important to note that a lawsuit has been filed challenging how the building commissioner and Zoning Board of Appeals have interpreted the Zoning By-Law as it pertains to Short-Term Rentals in Brookline. If this lawsuit prevails without Brookline having Short-Term Rental regulations in place, Short-Term Rentals will become an as-of-right use in Brookline.

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<sup>1</sup> On January 25, 2021, the deputy town administrator provided the Moderator's Committee with an XLS file entitled "short term rentals registered in brookline.xls" that was produced by the Department of Revenue.



Bennett, Transportation Administrator Todd Kirrane, Assistant Director for Regulatory Planning Polly Selkoe, and First Assistant Town Counsel Patty Correa. The Committee expresses its sincere appreciation for the information and advice provided by these Town officials and also for the essential assistance provided by Zoning Coordinator/Planner Monique Baldwin, Kate McGillivray in the Select Board's Office, and Devon Fields, administrative services director in the Select Board's Office.

The committee devoted most of its time to an in-depth line-by-line review of the provisions of the Advisory Committee motions under Articles 9, 10, and 11 from the November 2020 Town Meeting. Its deliberations focused on revising some of those provisions to address potential objections so as to generate Warrant Articles that would be likely to receive widespread support at the May 2021 Annual Town Meeting.

The minutes, recordings, and other documents of the Moderator's Committee are available at: <https://www.brooklinema.gov/1863/Moderators-Committee-on-Short-Term-Renta>

The committee received much public input at its public hearing on Wednesday, January 13, 2021, and in emails from residents, STR operators, and condominium associations. Letters received by the committee can be viewed here: <https://www.brooklinema.gov/DocumentCenter/View/23561/Public-Comment-letters-to-the-Short-Term-Rentals-Committee-Vol-1>

The following is summary of the concerns raised by the public and committee members:

First, there was a category of comments that focused on the impact that STRs have on quality of life. These included issues related to noise, traffic, parking violations, and diminished sense of community. Some letters and emails questioned whether the Town had sufficient enforcement resources to respond to these problems.

Second, residents of condominium associations raised concerns about transient activity in their buildings, increased insurance, maintenance, and shared utility costs (e.g., from frequent washing of sheets and towels) that were borne in part by other owners. This group also urged the committee to propose regulations that would require STR operators to obtain the consent of their condominium associations before the Town issued a certificate of operation.

Third, there was feedback that the proposed regulations were too restrictive, violated the constitutional rights of condominium owners, restricted access by families looking to stay in STRs, and would prevent some residents from earning supplemental income that would help them afford to continue to live in Brookline. Some letters argued that STRs created few problems or disruptions in Brookline's neighborhoods and that any such concerns could be addressed by appropriate regulations.

The Moderator's Committee recognized that short-term rentals have possible advantages and disadvantages. These are generic pros and cons and not necessarily the consequences of the regulations being proposed for Brookline by this committee.

operator's primary residence. These provisions replicate what Boston has done to protect its long-term housing inventory from short-term rental conversion.<sup>2</sup>

Overall, the committee agreed that the operation of STRs should be safe, monitored, and limited in its negative externalities. The provisions of the three proposed Warrant Articles accomplish these goals by establishing regulations for appropriate certification and oversight of STRs. They also ensure that the operation of STRs will not greatly reduce the availability of long-term housing units—by prohibiting professionally managed STRs, prohibiting units restricted for below market-rate housing from operating as STRs, and allowing only owner-occupied units to operate as STRs.

### *The Recommendations of the Moderator's Committee*

The Moderator's Committee is recommending three Warrant Articles for the May 2021 Annual Town Meeting. These Articles, designated as Articles A, B, and C in this explanation, roughly correspond to the Articles considered by the November 2020 Special Town Meeting: Article 9 (zoning); Article 10 (regulations); and Article 11 (enforcement). The provisions of each of the former Articles have, however, been revised extensively.

### *Summary of the Three Warrant Articles*

**Article A** – Defines Short-Term Rentals (“not more than 27 consecutive calendar days”) and other related terms, requires that a short-term rental unit must be the primary residence of the operator, specifies that STR operators must own the units they rent out, and adds Short-Term Rentals as an allowed use in all residential and business districts in the Table of Use Regulations of the Zoning By-law.

**Article B** – Creates detailed regulations allowing Short-Term Rentals under a specific set of circumstances and establishes policies and procedures that operators must follow. The following are some of the key provisions:

- Short-term rental operators would be required to apply for and receive a certificate of registration and to show proof that the unit is their primary residence.
- The Select Board would issue regulations for the implementation of the by-law and those regulations could include a cap on the number of certificates of registration issued.
- Inspections by the Health, Building, and Fire Departments would be required before a certification of registration is issued and could be conducted upon renewal or at other times.
- Units cannot be subject to any local, state, or Federal, income eligible or income restricted program that is designated as below market rate housing.
- All accommodations would have to comply with building, fire, and health codes.

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<sup>2</sup> These regulations do not address lodging houses (including those that operate as bed and breakfasts and inns), that offer rooms and units on platforms such as Airbnb and HomeAway. Existing by-law provisions would apply to these establishments.

on # of STRs including by Zoning District			
Fine	\$300		\$300
Appeal Process	Defined by Select Board	Yes	A Default Process Has Been Added to the Regulations
Advertisers Must Provide Operator Information to the Town	Required	Yes	Provision Eliminated
Active STR Certificates Published on Town Website	YES		YES
STR Violations Published on Town Website	YES		YES
Abutters within 300' Notified within 15 Days of Issuance of Certificate	YES		YES
Certificate Revoked for 3 Violations in 12 Month Period. Select Board Public Hearing to Reinstate	YES		YES
Regulations enforced by Building Commissioner, Director of Health and Human Services, Fire Chief, Town Administrator and Police	YES		YES

### *Key Issues and How the Committee Addressed Them*

The Moderator's Committee agreed on many aspects of the three Warrant Articles. It recognized, however, that on some questions there were important potential differences of opinion within the committee, within Town Meeting, and within Brookline more generally. The committee's deliberations focused on these issues:

#### Whether the STR Operator Must Be Present During a Rental

Article 10 from the November 2020 Town Meeting would have required the STR operator to be present during a rental. During the debate, Town Meeting members pointed out that Brookline residents often rent their residences while they are away for a week or two. The committee received similar comments from the public. Reflecting the fact that rentals by temporarily absent owners are common, the committee did not include this requirement in its proposed Warrant Articles.

#### Whether Renters (Tenants) Could Rent Out Their Units as Short-Term Rentals

The committee decide to retain the requirement that STR operators must be owners of the units they rent out as STRs. Although this may seem unfair to renters who are attempting to supplement their income, the committee felt that allowing renters to be STR operators would make it impossible to distinguish between a renter supplementing their income and a renter who has been installed by an investor to operate an STR. The committee believed that following Boston's approach in this regard would make the most sense.

The arguments against this provision include that the requirement places an unfair burden on the applicant; that the condominium association may delay or hold back consent even though STRs are not prohibited by condominium by-laws; and that the Town is interfering in the decision-making process of the condominium association by requiring association consent. One commenter submitted legal contentions from a law school faculty member and an attorney that the provision may be unconstitutional. (Town Counsel's office advised that the arguments are untested.).

#### Whether STR Platforms Such as Airbnb Should be Required to Share Information

Committee members regarded this provision as very difficult to implement, a duplication of information that could be obtained by the Department of Revenue, and a possible invasion of privacy. It was therefore deleted from the proposed Warrant Articles.

#### The Requirement for Inspections

To ensure safe operation of STRs, the proposed Articles require health, safety, and fire inspections. There has been some doubt about whether the Town will have sufficient staff to conduct these inspections in a timely manner. Members of the committee expressed concern that issuance of a certificate might be delayed while the operator waited weeks or months for the required inspections. The committee decided that inspections should be required before an STR unit obtains a certificate of operation. The word "shall" therefore appears in the Article B provisions regarding inspections prior to the issuance of a certificate. The committee decided that inspections need not be required in all cases of STR renewals. The word "may" therefore appears in the Article B provisions regarding inspections in connection with renewal of a certificate.

#### Whether to Allow Commercial Meetings and Uses in STR Units

The committee discussed whether to prohibit commercial meetings, commercial uses, or both in short-term rental units. There was concern that commercial activity could be disruptive in a residential area. The committee also recognized that social events might be hosted by businesses in short-term rentals (e.g., a cocktail party in a house rented by a law firm in connection with a major golf tournament). The committee decided that it would be difficult to prevent commercial meetings, such as a social event or a one-on-one discussion between an author and their agent, in short-term rentals. It concluded that commercial uses, such as using an STR unit as a "pop-up" business could be more disruptive to abutters. Article B thus bans commercial uses but does not ban meetings.

#### Whether to Allow Rentals for Fewer Than Twenty-Four Hours

Article B would prohibit STRs for periods of fewer than twenty-four hours. The committee did not want to encourage the use of STRs for business activities associated with the rental of rooms by the hour.

amendments that would change any requirement that an STR operator obtain the approval of the relevant condominium association.

These Articles allow and regulate a new use in Brookline. There is no guarantee that the past approach to determining which amendments will be allowed will be followed by a new Moderator. Attempts to amend the Warrant Articles will raise important questions about which amendments are within the scope of the article. The new Moderator elected to serve at the May 2021 Annual Town Meeting may or may not allow amendments and motions depending on the Moderator's judgment of what is within the scope of the Article.

If Town Meeting members feel that the Articles are too permissive, they could move amendments that would, for example, prohibit STRs in certain zoning districts, reduce the maximum days per year that a unit can be rented as an STR, or defer the January 1, 2022 effective date of the by-law amendments, as the Moderator may deem within the scope of the original Article.

If Town Meeting members feel that the Articles are unnecessarily restrictive, that these restrictions will result in the inability of homeowners to continue their practice of earning a sufficient income from their units, and that the negative externalities of STRs need not be severe, they could move amendments that would delete requirements that STR operators demonstrate that short-term rentals are not prohibited by the relevant condominium association by-laws. To reduce the risk that issuance of a certificate to operate an STR might be delayed because an inspection could not be carried out promptly, an amendment might relax the inspection requirements by substituting "may" for "shall" in the by-law provisions that call for inspections of STRs.

PKF@BU.EDU

Submitted by: Moderator's Committee for Short-Term Rentals. Paula Friedman, chair.

To see if the Town will amend the General By-laws by adding the following article:

21 MAR 1 PM 1:39

## **ARTICLE 5.11**

### **Short-Term Rentals**

#### **Section 5.11.1          PURPOSE**

The Town of Brookline adopts this By-law for the regulation and restriction of Short-Term Rentals within the Town in order to protect the health and safety of renters and residents, and to provide a process through which certain properties that meet specific requirements and eligibility criteria may be registered with the Town of Brookline for use as Short-Term Rentals.

#### **Section 5.11.2          DEFINITIONS**

As used in this by-law, the following terms shall have the following meanings:

“Enforcement Authority”: As designated by Article 10.2 of the General By-Laws.

“Short-Term Rental”, or “STR”: The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment.

“Short-Term Rental Unit”: A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

“Short-Term Rental Operator”: Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.

“Primary Residence”: Any property at which a resident resides for at least 183 days of the calendar year.

#### **Section 5.11.3          ELIGIBILITY/APPLICABILITY**

1. Any Short-Term Rental Operator seeking to establish a Short-Term Rental Unit must apply for and receive a Certificate of Registration, following the procedure set forth in Section 5.11.4. The following eligibility requirements shall apply to applicants seeking a Certificate:
  - a. The Short-Term Rental Unit cannot be subject to any local, state, or federal income-eligible or income-restricted program that is designated as below

market rate housing.

- b. The Short-Term Rental Unit shall not be subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, or other requirements, laws or regulations that prohibit the Operator from offering the residential unit as a Short-Term Rental.
  - c. The Short-Term Rental Unit shall not be in arrears regarding any municipal or state taxes, fines or fees. Short-Term Rentals, Short-Term Rental Operators, and Short-Term Rental Certificates of Registration are subject to Article 4.7 of the Town's General By-laws.
  - d. The accommodations offered must be compliant with all applicable state and local codes, including building codes, fire codes and health codes.
  - e. Occupancy is limited to a maximum of two (2) guests per bedroom. In a multi-unit building, occupancy is limited to a maximum of four (4) guests. In a single-unit building, occupancy is limited to a maximum of six (6) guests.
2. Nothing in this By-law shall be construed to make the Town responsible for compliance with or enforcement of a lease, condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

**Section 5.11.4                      REGISTRATION PROCEDURE AND SUBMISSION REQUIREMENTS**

1. In connection with an application for a Certificate of Registration, the operator shall provide to the Select Board's Office all documentation that the Office shall require, which may include, but not be limited to:
  - a. Any application fee, as may be determined by the Select Board.
  - b. Proof of Primary Residence, either by: 1) providing proof of enrollment in the Brookline residential tax exemption program; or 2) an income tax return for the current year and a recent utility bill both showing the current address of the operator as the address of the Short-Term Rental Unit.
  - c. Where a Short-Term Rental Unit is part of a condominium association, certification signed by the condominium association that the condominium association consents to the use of the Operator's unit as a Short-Term Rental.
  - d. Where a Short-Term Rental Unit is part of a condominium association, certification signed by the applicant that the operation of the Short-Term Rental complies with all condominium documents, by-laws, or other governing documents.

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- e. Floor plan of the Short-Term Rental Unit indicating the specific rooms to be offered. The floor plan shall identify each room by a numerical or alphabetical identifier. The floor plan may be sketched by hand but should be legibly labelled with the numerical or alphabetical identifier and the use of that room (e.g., bedroom, living room, etc.). The floor plan should identify the rooms to be used as sleeping accommodations and the proposed maximum occupancy for each. An operator may be asked to resubmit a floor plan with amendments in the event it is unacceptable to the Town's inspectional departments for health and/or safety or code compliance reasons.
  - f. Local Contact Information. When registering, a Short-Term Rental Operator must provide their name, address, home telephone number, cell phone number, and email address, as well as such contact information for a secondary contact. Such contact information should identify at least one individual with corresponding contact information (including an active telephone number at which the person will be reachable 24 hours a day) who can respond in person within two hours of contact by a Town official to any issue or emergency that arises during a Short-Term Rental.
  - g. Such other information and documentation as the Select Board's Office may determine.
  - h. Within 14 days of the issuance of a Certificate of Registration, the Select Board Office shall mail notice of the Certificate of Registration to abutters (property owners, residents and tenants) within 300 feet of the Short-Term Rental Unit.
- 2. The initial issuance and renewal of a Certificate of Registration shall be subject to the applicant's compliance with applicable federal, state and local law, including this By-Law.
  - 3. The Certificate of Registration shall be valid for a period of one (1) to five (5) years, as the Select Board's Office may determine. The Certificate of Registration shall include a registration number, and shall identify the type of Short-Term Rental, the specific rooms that may be used as sleeping accommodations, and the maximum occupancy for each such room and for the unit as a whole.
  - 4. An operator may seek modification of a Certificate of Registration, including with regard to rooms to be used as sleeping accommodation and maximum occupancies, by submitting such documentation as may be required by the Select Board's Office in connection with such request. Modification of a Certificate of Registration is subject to approval by the Town's Health, Building and Fire Departments, who may conduct a pre-approval health and safety inspection as necessary. No modification of a Certificate may effect a change to the type of Short-Term Rental for which the Certificate was issued.
  - 5. Certificates of Registration are non-transferable. A Certificate of Registration



shall be null and void upon a change in property owner or upon any change in the Primary Residence of the Short-Term Rental Operator that makes the unit ineligible for operation as a Short-Term Rental under this By-law.

6. An Enforcement Authority may revoke, suspend or modify a Certificate of Registration for good cause. The Short-Term Rental Operator shall have the right to a hearing, or opportunity therefor, in connection with such action.
7. Should the Short-Term Rental Operator be issued three (3) or more violation notices within any twelve (12) month period under this article, or of any municipal ordinance, state law, or building code, the Certificate of Registration will be revoked. In such case, a new Certificate of Registration may only be re-issued after a public hearing before the Select Board, which may, impose additional conditions. In the event an Enforcement Authority suspends or revokes an operator's right to operate an STR, the Town shall notify the Massachusetts Commissioner of Revenue of the suspension or termination.

#### **Section 5.11.5            INSPECTIONS**

Prior to approving an initial Certificate of Registration, the Health, Building and Fire Departments shall conduct a health and safety inspection. Such inspections may be conducted upon renewal or in connection with an annual or other inspectional schedule to be determined by the Town. Such inspections may be used to verify that each Short-Term Rental Unit:

1. Meets all building, health and fire code and regulatory requirements.
2. Meets all requirements of this By-Law and of any regulations promulgated pursuant to this By-law.

Inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints and/or concerns regarding non-compliance or health and safety issues. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re-inspection fees.

#### **Section 5.11.6            OPERATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL UNITS**

1. No person shall operate a Short-Term Rental without a current Certificate of Registration pertaining to the Short-Term Rental Unit.
2. Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes.
3. Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By-Law, a Short-Term Rental Operator may offer their Short-Term Rental Unit for up to 90 days per year.

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4. A Short-Term Rental must be operated consistent with the terms set forth on the Certificate of Registration and with applicable law, including, but not limited to, with regard to rooms to be used as sleeping accommodations, the maximum occupancy of each room, the maximum occupancy of the unit as a whole, and any other stated conditions.
5. The following must be included within each Short-Term Rental Unit:
  - a. Diagram indicating the location of all fire extinguishers, gas shut-off valves, fire exits and fire alarms inside the Short-Term Rental Unit as well as in the building, as well as an evacuation route(s) highlighted in red. The diagram shall be posted (i) in each bedroom used as a Short-Term Rental, (ii) on all egresses from the Short-Term Rental Unit, and (iii) in common areas accessible to the Short-Term Rental Unit;
  - b. A conspicuously placed binder with, at a minimum, the following information:
    - i. Local contact information including the name, address, home and cell phone numbers and email address for the Short-Term Rental Operator as well as one additional contact person who shall be reachable 24 hours a day in the absence of the Operator,
    - ii. Instructions for disposal of trash and recycling pursuant to any applicable requirements established by the Town of Brookline and/or by the property owner or condominium association,
    - iii. Information about Brookline parking regulations, including overnight parking restrictions and designated parking areas for guests, and
    - iv. Copy of Certificate of Registration from the Select Board's Office;
  - c. Fire extinguisher(s) which shall be of type ABC 10lb., dry chemical commercial with a tag to be tested and serviced annually by certified service company. Within a single-family unit, or multiple-unit building where units do not share a common access corridor, there shall be at least one acceptable type fire extinguisher available to the occupant within the unit. Where multiple units share a common access corridor on the same floor, one extinguisher may service up to four units, and be located within the access corridor on the same floor in a location to be determined by the Fire Department;
  - d. A hard-wired smoke/fire alarm system installed in accordance with M.G.L. Chapter 148 and NFPA 72; and
  - e. Any other documentation required by the Select Board's Office to be distributed inside Units.
6. Public advertisements (online or in print) for a Short-Term Rental shall include in the advertisement the Town-issued registration number associated with the Short-Term Rental's Certificate of Registration. A Short-Term Rental Operator shall

only use the name stated on the application for an initial or renewed Certificate of Registration in on-line or other listings of the Short-Term Rental Unit.

7. A Short-Term Rental Operator must keep accurate records of their business including date(s) of rental, rental rates, names of customers and customers' contact information for a period of three (3) years, and make them available to the Town upon request consistent with applicable federal, state and local law.
8. A Short-Term Rental Operator shall notify the Select Board's Office of any change in the Operator's Primary Residence within two (2) weeks of any change.
9. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.
10. Commercial uses are prohibited in Short-Term Rental Units.
11. Short-Term Rental Operators shall cooperate and comply with lawful requests for information made by the Select Board's Office and its agents, including from the Planning, Building, Health, Police, Fire and Public Works Departments. Such requests may include requests for by-laws and other condominium documents in order to verify certification(s) submitted to the Town in connection with a Short-Term Rental Certificate of Registration.

#### **Section 5.11.7        REGULATIONS**

The Select Board may issue regulations for the implementation of this By-law, including for the establishment of any appeal process, and for the establishment of a cap on the number of Certificates of Registration issued.

#### **Section 5.11.8        APPEALS**

Unless provided otherwise by Select Board regulations, any person aggrieved by the action or failure to act of a certifying agent shall have the right of appeal to the Select Board. Such appeal must be made in writing and filed with the office of the Select Board within fourteen days from the date action was taken. If the party aggrieved appeals from a failure of a certifying agent to act within forty-five days from the filing of an application, such appeal shall be made in writing and filed with the office of the Select Board within sixty days from the date of application.

#### **Section 5.11.9        FINES**

Any person violating this By-law shall be fined in the amount of \$300 for each violation. Each day of a continuing violation shall count as a separate violation.

#### **Section 5.11.10      REPORTING**

1. A list of Short-Term Rental Units with active Certificates of Registration will be published on the Town website and updated at least monthly. Information must include address, Short-Term Rental type, Certificate of Registration effective and

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expiration dates, approved number of rooms and guests and any other restrictions.

2. A list of Short-Term Rental Unit violations will be published on the Town website and updated at least monthly. Information must include Certificate of Registration number, address, date of violation, type of violation, and dollar amount of fine.

### **Section 5.11.11      EFFECTIVE DATE**

These amendments to the General By-law shall take effect on January 1, 2022.

### **Section 5.11.12      SEVERABILITY**

If any provision(s) of this Article 5.11 of the General By-law is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

Or act on anything relative thereto.

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21 MAR 1963

## Warrant Article signature page

SIGNATURES (Ten registered voters required)

The following registered Brookline voters support the attached submitted article.

<u>SIGNATURE</u>	<u>PRINT NAME</u>	<u>ADDRESS</u>
1. <i>Paul J. Warren</i>	Paul J. Warren	71 Carlton St.
2. <i>Amy R. Evnson</i>	Amy R. Evnson	71 Carlton Street
3. <i>Daniel J. Jurek</i>	DANIEL JUREK	68 AMORY ST
4. <i>Katharine W. Silbaugh</i>	KATHARINE SILBAUGH	68 Amory St
5. <i>Susan E. DeLong</i>	Susan E. DeLong	3 Worthington Rd
6. <i>Robert G. DeLong</i>	Robert G. DeLong	3 Worthington Rd
7. <i>Patrick Maguire</i>	Patrick Maguire	18 Monmouth Court
8. <i>Ana Albuquerque</i>	ANA ALBUQUERQUE	24 EUSON ST. APT #2
9. <i>Rui Albuquerque</i>	Rui Albuquerque	24 EUSON ST #2
10. <i>Summer Latif</i>	Summer Latif	24 EUSON ST. #1
11. <i>Raymond Latif</i>	Raymond Latif	24 EUSON ST #1
12. <i>Beik Gordon</i>	BEIK GORDON	87 1st St
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Warrant Article signature page

SIGNATURES (Ten registered voters required)

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<u>SIGNATURE</u>	<u>PRINT NAME</u>	<u>ADDRESS</u>
1. <u>Sean M. Lynn-Jones</u>	Sean M. Lynn-Jones	53 Monmouth St
2. <u>Cathleen B. Carrell</u>	Cathleen Carrell	27 Monmouth St
3. <u>Robert L. Schram</u>	Robert Schram	47 Monmouth St
4. <u>Nicola Schram</u>	Nicola Schram	47 Monmouth St
5. <u>Richard Garver</u>	Richard Garver	23 Monmouth Court
6. <u>Penny Garver</u>	Penny Garver	23 Monmouth Court
7. <u>Karen Lynn-Jones</u>	Karen Lynn-Jones	53 Monmouth St
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10.A.

21 MAR 1941:35

# 10.A.

Submitted by: Moderator's Committee on Short-Term Rentals. Paula Friedman, chair.

PKF@BU.EDU

To see if the Town will amend Article 10.2 (Prosecutions and Enforcement) of the General By-Laws as follows (additions are in **bold underlining**):

'21 MAR 1 PM 1:42

## ARTICLE 10.2 PROSECUTIONS AND ENFORCEMENT

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following bylaws and articles shall be by the following department head or their designees:

<b><u>DEPARTMENT HEAD</u></b>	<b><u>ARTICLE</u></b>
<b>BUILDING COMMISSIONER</b>	
Part V – Private Property	Articles 5.2, 5.3, 5.4 5.6, 5.7, 5.8, <b><u>5.11 (5.11 (“Short-Term Rentals”) to be effective January 1, 2022)</u></b> ....
<b>DIRECTOR OF HEALTH &amp; HUMAN SERVICES</b>	
Part V – Private Property	Articles 5.1, 5.2, 5.4, 5.5, 5.7, <b><u>5.11</u></b> <b><u>(5.11</u></b> <b><u>(“Short-</u></b> <b><u>Term</u></b> <b><u>Rentals”) to</u></b> <b><u>be effective</u></b> <b><u>1/1/22)</u></b>
<b>FIRE CHIEF</b>	
)Part V – Private Property	Articles 5.11 (5.11 (“Short- Term Rentals”) to be effective 1/1/22)
....	
<b><u>TOWN ADMINISTRATOR</u></b>	
Part V – Private Property	Articles 5.11 (5.11 (“Short- Term Rentals”) to be effective 1/1/22)

Or act on anything relative thereto.

## Warrant Article signature page

SIGNATURES (Ten registered voters required)

The following registered Brookline voters support the attached submitted article.


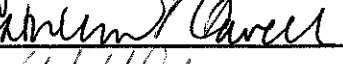
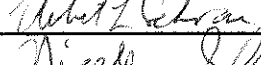

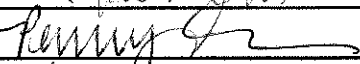
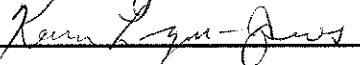

<u>SIGNATURE</u>	<u>PRINT NAME</u>	<u>ADDRESS</u>
1. <i>Paul J. Warren</i>	Paul Warren	71 Carlton St.
2. <i>Amy R. Evanson</i>	Amy R. Evanson	97 Carlton Street
3. <i>Daniel Jurayt</i>	DANIEL JURAYT	68 AMORY ST
4. <i>Katherine Slough</i>	KATHARINE SLAUGHT	68 AMORY ST
5. <i>Susan E. DeLong</i>	Susan E. DeLong	3 Worthington Rd
6. <i>Robert G. DeLong</i>	Robert G. DeLong	3 Worthington Rd.
7. <i>Patrick McGuire</i>	Patrick McGuire	18 Monmouth Court
8. <i>Ana Albuquerque</i>	ANA ALBUQUERQUE	24 EUSTON ST APT #2
9. <i>Rui Albuquerque</i>	Rui ALBUQUERQUE	24 EUSTON ST #2
10. <i>Summer Larif</i>	Summer Larif	24 EUSTON ST. #1
11. <i>Raymond Larif</i>	24 EUSTON ST. #2	Raymond Larif
12. <i>Neil Gordon</i>	NEIL GORDON	87 107 St
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Moderator's Committee on Short-Term Rentals: Article C C Enforcement<sup>10.A.</sup>

Warrant Article signature page

SIGNATURES (Ten registered voters required)

The following registered Brookline voters support the attached submitted article.

<u>SIGNATURE</u>	<u>PRINT NAME</u>	<u>ADDRESS</u>
1. 	Sean M. Lyon-Jones	53 Monmouth St
2. 	Cathleen Carrell	27 Monmouth Ct
3. 	Robert Schram	47 Monmouth St
4. 	Nicole Schram	47 Monmouth St
5. 	Richard Garver	723 Monmouth Ct
6. 	Penny Garver	27 Monmouth Ct
7. 	Karen Lyon-Jones	53 Monmouth St
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'21 MAR 3 AM 11:31

Submitted by: Susan Roberts and Maureen Coffey, Petitioners

To see if the Town will amend the General By-laws by adding the following article:

**ARTICLE 5.11  
Short-Term Rentals**

***[PETITIONERS' NOTE: PETITIONERS' ARTICLE BELOW IS REDLINED TO COMPARE THIS ALTERNATIVE ARTICLE TO THAT SUBMITTED BY THE MODERATOR'S COMMITTEE ON SHORT-TERM RENTALS, BASED ON THE COMMITTEE'S VOTE OF 2/24/21.]***

**Section 5.11.1 PURPOSE**

The Town of Brookline adopts this By-law for the regulation and restriction of Short-Term Rentals within the Town in order to protect the health and safety of renters and residents, and to provide a process through which certain properties that meet specific requirements and eligibility criteria may be registered with the Town of Brookline for use as Short-Term Rentals.

**Section 5.11.2 DEFINITIONS**

As used in this by-law, the following terms shall have the following meanings:

"Enforcement Authority": As designated by Article 10.2 of the General By-Laws.

"Short-Term Rental", or "STR": The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment.

"Short-Term Rental Unit": A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

"Short-Term Rental Operator": Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.

"Primary Residence": Any property at which a resident resides for at least 183 days of the calendar year.

**Section 5.11.3 ELIGIBILITY/APPLICABILITY**

1. Any Short-Term Rental Operator seeking to establish a Short-Term Rental Unit must apply for and receive a Certificate of Registration, following the procedure set forth in Section 5.11.4. The following eligibility requirements shall apply to applicants seeking a Certificate:

- a. The Short-Term Rental Unit cannot be subject to any local, state, or federal income-eligible or income-restricted program that is designated as below market rate housing.
- b. The Short-Term Rental Unit shall not be subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, or other requirements, laws or regulations that prohibit the Operator from offering the residential unit as a Short-Term Rental.
- c. The Short-Term Rental Unit shall not be in arrears regarding any municipal or state taxes, fines or fees. Short-Term Rentals, Short-Term Rental Operators, and Short-Term Rental Certificates of Registration are subject to Article 4.7 of the Town's General By-laws.
- d. The accommodations offered must be compliant with all applicable state and local codes, including building codes, fire codes and health codes.
- e. Occupancy is limited to a maximum of two (2) guests per bedroom. ~~In a multi-unit building, occupancy is limited to a maximum of four (4) guests. In a single unit building, occupancy is limited to a maximum of six (6) guests.~~

2. Nothing in this By-law shall be construed to make the Town responsible for compliance with or enforcement of a lease, condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

#### **Section 5.11.4 REGISTRATION PROCEDURE AND SUBMISSION REQUIREMENTS**

1. In connection with an application for a Certificate of Registration, the operator shall provide to the Select Board's Office all documentation that the Office shall require, which may include, but not be limited to:

- a. Any application fee, as may be determined by the Select Board.
- b. Proof of Primary Residence, either by: 1) providing proof of enrollment in the Brookline residential tax exemption program; or 2) an income tax return for the current year and a recent utility bill both showing the current address of the operator as the address of the Short-Term Rental Unit.

~~a-c. Where a Short-Term Rental Unit is part of a condominium association, certification signed by the condominium association that the condominium association consents to the use of the Operator's unit as a Short-Term Rental.~~

~~Where a Short-Term Rental Unit is part of a condominium association, certification a statement signed by the applicant that the operation of the Short-Term Rental complies with all is not prohibited by condominium documents, by-laws, or other governing documents.~~

d. Floor plan of the Short-Term Rental Unit indicating the specific rooms to be offered. The floor plan shall identify each room by a numerical or alphabetical identifier. The floor plan may be sketched by hand but should be legibly labelled with the numerical or alphabetical identifier and the use of that room (e.g., bedroom, living room, etc.). The floor plan should identify the rooms to be used as sleeping accommodations and the proposed maximum occupancy for each. An operator may be asked to resubmit a floor plan with amendments in the event it is unacceptable to the Town's inspectional departments for health and/or safety or code compliance reasons.

e. Local Contact Information. When registering, a Short-Term Rental Operator must provide their name, address, home telephone number, cell phone number, and email address, as well as such contact information for a secondary contact. Such contact information should identify at least one individual with corresponding contact information (including an active telephone number at which the person will be reachable 24 hours a day) who can respond in person within two hours of contact by a Town official to any issue or emergency that arises during a Short-Term Rental.

f. Such other information and documentation as the Select Board's Office may determine.

~~b.a. Within 14 days of the issuance of a Certificate of Registration, the Select Board Office shall mail notice of the Certificate of Registration to abutters (property owners, residents and tenants) within 300 feet of the Short-Term Rental Unit.~~

2. The initial issuance and renewal of a Certificate of Registration shall be subject to the applicant's compliance with applicable federal, state and local law, including this By-Law.

3. The Certificate of Registration shall be valid for a period of one (1) to five (5) years, as the Select Board's Office may determine. The Certificate of Registration shall include a registration number, and shall identify the type of Short-Term Rental, the specific rooms that may be used as sleeping accommodations, and the maximum occupancy for each such room and for the unit as a whole.

4. An operator may seek modification of a Certificate of Registration, including with regard to rooms to be used as sleeping accommodation and maximum occupancies, by submitting such documentation as may be required by the Select Board's Office in connection with such request. Modification of a Certificate of Registration is subject to approval by the Town's Health, Building and Fire Departments, who may conduct a pre-approval health and safety inspection as necessary. No modification of a Certificate may effect a change to the type of Short-Term Rental for which the Certificate was issued.

5. Certificates of Registration are non-transferable. A Certificate of Registration shall be null and void upon a change in property owner or upon any change in the Primary Residence of the Short-Term Rental Operator that makes the unit ineligible for operation as a Short-Term Rental under this By-law.

6. An Enforcement Authority may revoke, suspend or modify a Certificate of Registration for good cause. ~~The violation of this By-law. Prior to such revocation, suspension or modification, the Short-Term Rental Operator shall be provided with written notice and shall have the right to a hearing, or opportunity therefor, in connection with such action.~~

7. ~~Should the Short-Term Rental Operator be issued, be found by the Enforcement Authority to be in violation of this Bylaw three (3) or more violation notices within any twelve (12) month period under this article, or of any municipal ordinance, state law, or building code, the Certificate of Registration will may be suspended or revoked following written notice to the STR Operator and the opportunity for a hearing as provided in Section 5.11.4(6) above. In such case, a new Certificate of Registration may only be re-issued after a public hearing before the Select Board, which may, impose additional conditions. In the event an Enforcement Authority suspends or revokes an operator's right to operate an STR, the Town shall notify the Massachusetts Commissioner of Revenue of the suspension or termination.~~

#### **Section 5.11.5 INSPECTIONS**

Prior to approving an initial Certificate of Registration, the Health, Building and Fire Departments ~~shall~~may conduct a health and safety inspection. Such inspections may be conducted upon renewal or in connection with an annual or other inspectional schedule to be determined by the Town. Such inspections may be used to verify that each Short-Term Rental Unit:

1. Meets all building, health and fire code and regulatory requirements.
2. Meets all requirements of this By-Law and of any regulations promulgated pursuant to this By-law.

Inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints and/or concerns regarding non-compliance or health and safety issues. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re- inspection fees.

#### **Section 5.11.6 OPERATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL UNITS**

1. No person shall operate a Short-Term Rental without a current Certificate of Registration pertaining to the Short-Term Rental Unit.



2. Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes.

~~Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By Law, a3.~~ A Short-Term Rental Operator may offer their Short-Term Rental Unit for up to ~~90~~365 days per year.

4. A Short-Term Rental must be operated consistent with the terms set forth on the Certificate of Registration and with applicable law, including, but not limited to, with regard to rooms to be used as sleeping accommodations, the maximum occupancy of each room, the maximum occupancy of the unit as a whole, and any other stated conditions.

5. The following must be included within each Short-Term Rental Unit:

- a. Diagram indicating the location of all fire extinguishers, gas shut-off valves, fire exits and fire alarms inside the Short-Term Rental Unit, as well as in the building, as well as an evacuation route(s) highlighted in red. The diagram shall be posted (i) in each bedroom used as a Short-Term Rental, (ii) on all egresses from the Short-Term Rental Unit, and (iii) in common areas accessible to the Short-Term Rental Unit;
- b. A conspicuously placed binder with, at a minimum, the following information:
  - i. Local contact information including the name, address, home and cell phone numbers and email address for the Short-Term Rental Operator as well as one additional contact person who shall be reachable 24 hours a day in the absence of the Operator,
  - ii. Instructions for disposal of trash and recycling pursuant to any applicable requirements established by the Town of Brookline and/or by the property owner or condominium association,
  - iii. Information about Brookline parking regulations, including overnight parking restrictions and designated parking areas for guests, and
  - iv. Copy of Certificate of Registration from the Select Board's Office.
- c. Fire extinguisher(s) which shall be of type ABC 10lb., dry chemical commercial with a tag to be tested and serviced annually by certified service company. Within a single-family unit, or multiple-unit building where units do not share a common access corridor, there shall be at least one acceptable type fire extinguisher available to the occupant within the unit. Where multiple units share a common access corridor on the same floor, one extinguisher may service up to four units, and be located within the access corridor on the same floor in a location to be determined by the Fire Department;
- d. A hard-wired smoke/fire alarm system installed in accordance with M.G.L. Chapter 148 and NFPA 72; and

e. Any other documentation required by the Select Board's Office to be distributed inside Units.

6. Public advertisements (online or in print) for a Short-Term Rental shall include in the advertisement the Town-issued registration number associated with the Short-Term Rental's Certificate of Registration. A Short-Term Rental Operator shall only use the name stated on the application for an initial or renewed Certificate of Registration in on line or other listings of the Short-Term Rental Unit.

7. A Short-Term Rental Operator must keep accurate records of their business including date(s) of rental, rental rates, names of customers and customers' contact information for a period of three (3) years, and make them available to the Town upon request consistent with applicable federal, state and local law.

8. A Short-Term Rental Operator shall notify the Select Board's Office of any change in the Operator's Primary Residence within two (2) weeks of any change.

9. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.

10. Commercial uses are prohibited in Short-Term Rental Units.

11. Short-Term Rental Operators shall cooperate and comply with lawful requests for information made by the Select Board's Office and its agents, including from the Planning, Building, Health, Police, Fire and Public Works Departments. Such requests may include requests for by-laws and other condominium documents in order to verify certification(s) submitted to the Town in connection with a Short-Term Rental Certificate of Registration.

#### **Section 5.11.7 REGULATIONS**

The Select Board may issue regulations for the implementation of this By-law, including for the establishment of any appeal process, and for the establishment of a cap on the number of Certificates of Registration issued.

#### **Section 5.11.8 APPEALS**

Unless provided otherwise by Select Board regulations, any person aggrieved by the action or failure to act of a certifying agent shall have the right of appeal to the Select Board. Such appeal must be made in writing and filed with the office of the Select Board within fourteen days from the date action was taken. If the party aggrieved appeals from a failure of a certifying agent to act within forty-five days from the filing of an application, such appeal shall be made in writing and filed with the office of the Select Board within sixty days from the date of application.

#### **Section 5.11.9 FINES**

~~Any person violating~~ Without in any way limiting an STR Operator's rights as stated in Sections 5.11.4(6) and/or (7), for each violation of **this By-law** determined pursuant to said sections, a STR Operator **shall be fined in the amount of \$300 for each violation. Each**. Subject to Sections 5.11.4(6) and/or (7), each ~~day of a continuing~~ that a STR Unit is rented without such **violation** having been addressed as may be required, provided that said violation is not of a de minimis nature as determined by the Enforcement Authority, such rental day **shall count as a separate violation.**

### **Section 5.11.10      REPORTING**

1. A list of Short-Term Rental Units with active Certificates of Registration will be published on the Town website and updated at least monthly. Information must include address, Short-Term Rental type, Certificate of Registration effective and expiration dates, and approved number of rooms with sleeping accommodations and guests and any other restrictions.

2. A list of Short-Term Rental Unit violations, as such violations have been determined in accordance with Sections 5.11.4(6) and/or (7), will be published on the Town website and updated at least monthly. Information must include Certificate of Registration number, address, date of violation, type of violation, and dollar amount of fine, as provided in Sections 5.11.4(6) and/or(7).

### **Section 5.11.11      EFFECTIVE DATE**

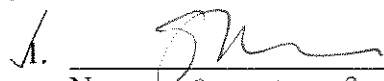
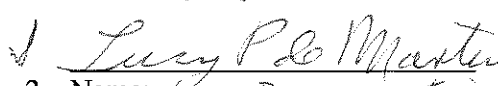
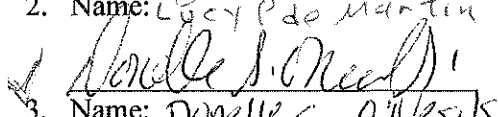
These amendments to the General By-law shall take effect on January 1, 2022.

### **Section 5.11.12      SEVERABILITY**

If any provision(s) of this Article 5.11 of the General By-law is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

Or act on anything relative thereto.

Signatures of Town of Brookline Registered Voters:

1.  Address: 69 Green St, Brookline  
Name: Susan M. Roberts
2.  Address: 67 Green St, Brookline  
Name: Lucy P de Martin
3.  Address: 68 Village Way Brookline #4  
Name: Donelle S. O'Neals

4. [Signature] Address: 7 VERNDALE ST. #3  
Name: KEENE
- ✓ 5. [Signature] Address: 7 VERNDALE ST. #3  
Name: LEE Eisenbaum
- ✓ 6. [Signature] Address: 7 VERNDALE ST. #3  
Name: DINA ARONSON
- ✓ 7. [Signature] Address: 5 VERNDALE #4  
Name: MATTIE KLOCK
- ✓ 8. [Signature] Address: 5 VERNDALE #4  
Name: MARK ROMANOWSKY
- ✓ 9. [Signature] Address: 34 Kenwood St #29  
Name: Alissa Reyzin
- ✓ 10. [Signature] Address: 45 BARNARD RD PRESENT 6  
Name: CHRISTOPHER DEMPSEY
- ✓ 11. [Signature] Address: 1400 Davis Ave. Present 6  
Name: MARTHA E. HUNTLEY
- ✓ 12. [Signature] Address: 110 DAVIS Ave. Present 6  
Name: STEVEN WEBLER
- ✓ 13. [Signature] Address: 66 Beverly Rd. Pct. 16  
Name: CAROLYN THALL
- ✓ 14. [Signature] Address: 66 Beverly Rd Pct 16  
Name: Adam Finnan
- ✓ 15. [Signature] Address: 383 Russett Rd Pct. 16  
Name: Scott Gladstone

- ✓ 16. Marc Roudebush Address: 57 Hedge Rd P: 5  
Name: Marc
- ✓ 17. Manon Hatvany Address: 57 Hedge Rd P: 5  
Name: Manon
- ✓ 18. Bonnie Bastien Address: 32 Oakland Rd.  
Name: B Bastien
- ✓ 19. Burt Whit Address: 32 Oakland Rd.  
Name: Burt Le Gent
- ✓ 20. Susan Kommt Address: 35 Park St. #5  
Name: SUSAN KOMMT
- ✓ 21. Eric Schwarz Address: 21 Hawthorn Rd. #5  
Name: Eric Schwarz (Frederick Schwarz)
- ✓ 22. Maureen Coffey Address: 21 Hawthorn Rd. #5  
Name: Maureen Coffey
- ✓ 23. Ronan Schwarz Address: 21 Hawthorn rd #5  
Name: Ronan Schwarz
24. \_\_\_\_\_ Address: \_\_\_\_\_  
Name: \_\_\_\_\_
25. \_\_\_\_\_ Address: \_\_\_\_\_  
Name: \_\_\_\_\_
26. \_\_\_\_\_ Address: \_\_\_\_\_  
Name: \_\_\_\_\_

We certify that the above (22) number of signatures are those of voters registered in the Town of Brookline.

Explanation of Warrant Article on Short-Term Rentals  
 Petitioners Susan Roberts (TMM Pct. 2) and Maureen Coffey (Pct. 5)

Need for a Balanced Approach: That the operation of Short-Term Rentals (STRs) in Brookline has generated heated debate on several issues is understandable given that (i) an overreaching set of regulations would unnecessarily restrict Brookline residents from being able to derive valued and needed income, in some cases income that allows them to make ends meet, and (ii) inadequately protective regulations may result in neighbors' being subjected to potential nuisance incidents from undue noise, unkept trash, illegally parked cars, and the like. Given these important financial and quality of life implications, a balance in the regulations needs to be carefully found which this Warrant Article reflects.

Understanding the Landscape and Broadening the Debate: Petitioners' purpose in bringing this alternative Warrant Article is to ensure that Town Meeting may have a broad and informed debate of controversial issues in order to strike the regulations' proper balance. Unfortunately, because of limitations already included in the Moderator's Committee Warrant Article, such a broad debate likely cannot occur given Town Meeting's rules that generally prohibit consideration of amendments allowing for more permissive (albeit adequately protective) provisions.

A broader debate also relies on informed decisionmakers having an understanding of the nature and extent of STRs already operating in Brookline. To date, there has been little to no reliable investigation of such STRs, nor of any complaints regarding them. To the extent feasible, Petitioners plan to review available and pertinent information concerning current STRs in Town and present relevant findings to Town Meeting to encourage constructive discussion.

In a Nutshell, the Issues for Discussion:

Three (3) core issues expose the differences between the Warrant Articles and raise these questions:

1. Should there be a maximum number of people allowed in a STR unit? If so, on what criteria should that maximum be based to insure the limit is reasonable given the real potential harm?
2. Should there be a limit on the number of days a STR host may offer or rent their STR unit? If so, what is the justification for such a limit given actual potential harm?
3. For a STR within a condominium, where the condominium's governing documents contain no such requirement, should the STR host be required to obtain the condominium association's written consent? If so, what is the Town's public purpose in effecting changes to unit owners' real property interests, and how can the Town ensure that the rights of a STR host are not chilled?

Three (3) other important issues (with less controversy) raise the following questions:

- a. Should we require STR hosts to notify abutters within 300 feet of their unit when doing so (i) may be unduly burdensome, especially in the case multi-family buildings, (ii) is not required by the Town in other types of similar applications for a certificates of registration, and (iii) likely will serve only to create and fan flames of unnecessary and unwanted conflict among neighbors?
- b. To avoid unduly burdening Town departments or delaying issuance of certificates of registration, should Town departments have discretion to make inspections of STR units as necessary or appropriate, where such inspections are not required of residential rentals of 28 days or longer?

## 10.A.

- c. Should we include basic principles of due process in the issuance of violations and fines so that STR hosts are given written notice of any problems or complaints with rights to cure and address problems?

Petitioners' Warrant Article answers these questions with regulations that balance the rights of the Town, STR hosts, neighbors, taxpayers and other residents of Brookline.

## **Report of the Preservation Commission to Extend the Boundaries of the Lawrence Local Historic District Spring 2021**

At its meeting on December 8, 2020, the Preservation Commission received a petition signed by a group of neighbors, who live on Kent Street, requesting that their neighborhood be included in the Lawrence Local Historic District, established in 2011. The genesis of the petition was the continued development pressure along Kent Street, specifically the proposed demolition of two historically significant buildings at 116 Colchester and 295 Kent Street in August 2020. The Commission voted to act as the study committee for the proposal and to work with a consultant, neighbors, and preservation planners on a preliminary study report, as required by M.G.L. Chapter 40C.

A preliminary study report was prepared by consultant Shantia Anderheggen which describes the historical, architectural, and cultural significance of the residential neighborhood that includes parts of Kent Street and Colchester Street. The proposed extension adds seven properties to the district, including 116 Colchester Street, 282, 287-289, 288, 294, 295 and 300 Kent Street. All seven properties are listed in the Longwood National Register District. The variety of style buildings date between ca. 1870 and ca. 1935 and include Second Empire (or Mansard), Colonial Revival, Victorian, and Tudor Revival styles. The area represents the later 19<sup>th</sup> century style of property development as well as the type of speculative property development and subdivision of larger estate properties that began to occur in the first few decades of the 20<sup>th</sup> century, and accelerated in the mid-century in Brookline.

Based on the conclusions in the report, the Brookline Preservation Commission voted at its December 29, 2020 meeting to accept the preliminary study report for submission to the Massachusetts Historical Commission (MHC) and the Brookline Planning Board as required by M. G. L. Chapter 40C. It was accepted on December 30, 2020.

At the Public Hearing held on Monday, March 1, 2021, to satisfy the requirements of Chapter 40C, the Commission voted to accept the preliminary study report as final. Additionally, a neighborhood representative provided updated numbers of property owner support, which is 93%, with one owner remaining neutral, and none in opposition. Lastly, at its March 1, 2021 public hearing, the Preservation Commission voted to submit a warrant article to Spring 2021 Town Meeting for the proposed extension of the Lawrence Local Historic District.

Under Article 5.6, Preservation Commission and Historic Districts By-law of the Town By-laws, any proposed local historic district or changes in boundaries must be approved by a two-thirds vote of Town Meeting. There are currently eight local historic districts in Brookline: Cottage Farm, established in 1979; Pill Hill, established in 1983; Graffam-McKay established in 2004; Harvard Avenue established in 2005; and Chestnut Hill North established in 2005; Lawrence established in 2011; Wild-Sargent established in 2012; and Crowninshield in 2015.



Lawrence Local Historic District

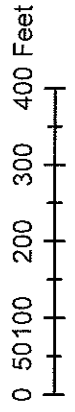
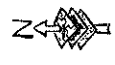
To see if the Town will amend Article 5.6.3 (f) of the Town's General By-Laws, entitled Preservation Commission & Historic Districts By-Law, by adding the **bold faced** text and by deleting the ~~striketrough~~ text:

(f) Lawrence Local Historic District

There is hereby established an Historic District, to be entitled the "Lawrence Historic District", the boundaries of which ~~shall be~~ **are** shown on the map entitled "Lawrence Historic District **as Extended**", a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law **and which supersedes the map entitled "Lawrence Historic District."**

or act on anything relative thereto.

21 MAY 2024

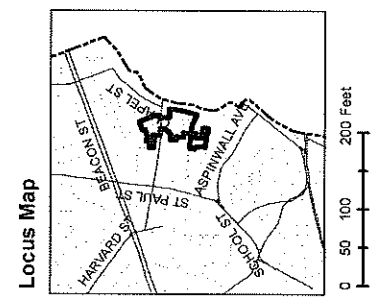


**Lawrence LHD  
As Extended**

Town of Brookline  
Massachusetts

- Lawrence LHD As Extended
- Building Footprints
- Property Lines
- Street Edges
- Town Boundary

**Data Sources**  
The information shown on this map is from the Brookline Geographic Information System (GIS) database



**BROOKLINE  
GIS**

"Mapping Our Community"

Map created by Brookline GIS on 3/17/2021

**STUDY REPORT**

**PROPOSED EXTENSION  
OF THE  
LAWRENCE LOCAL HISTORIC DISTRICT**

**Brookline, Massachusetts**

Prepared for  
**Kent Street Neighbors Group**

Prepared by  
**Shantia Anderheggen, Preservation Strategies Consulting**

Edited by  
**Valerie Birmingham and Tina McCarthy, Brookline Preservation Planners,  
Brookline Preservation Commission,  
Department of Planning and Community Development**

**December 2020**

**SUMMARY SHEET**

**Contact Person:** Valerie Birmingham, Preservation Planner  
Town of Brookline, Planning Department  
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617-730-2089

**Study Committee:** Brookline Preservation Commission

**Members**

Elton Elperin, Chair  
Richard Panciera, Vice Chair  
James Batchelor  
Wendy Ecker  
David Jack  
Peter Kleiner  
David King

**Alternate**

Elizabeth Armstrong  
John Spiers

**Date of Public Hearing:** March 1, 2021

**Date of Town Meeting:** Begins May 19, 2021

**Total Number of Properties in Proposed Extension to the Lawrence LHD:** Seven (7) parcels

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**Conclusion:** *The majority of the residents of that portion of Kent Street that lies north of Longwood Avenue and south of Colchester Street are in agreement that their neighborhood deserves the recognition and protection of a Local Historic District. Upon study, the Brookline Preservation Commission agrees and thus recommends LHD status for this area within the Town of Brookline.*

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## I. INTRODUCTION

The subject of this Preliminary Study Report is the proposed expansion of the Lawrence Local Historic District (the Lawrence LHD), established in 2011 in the Town of Brookline, Massachusetts, with the addition of seven (7) properties located north of the existing Lawrence LHD (see Appendix A). The subject area of this proposed extension is located entirely within the Longwood National Register Historic District (the Longwood NR District), which also coincides with a portion of the existing Lawrence LHD.

The former hamlet of Muddy River was incorporated as the town of Brookline in 1705, bounded by the Charles River to the north and, in this part of Brookline, the Muddy River to the east; these boundaries remained unchanged until the 19th century, when Brookline's Charles River frontage was annexed to the City of Boston and the Muddy River was reconstructed as part of the Emerald Necklace. The nearby Longwood area of Brookline -- including the subject area of this report -- developed during the 19th century, after a large tract of woodlands and marshes along the Muddy River was subdivided and sold for building lots. While its topography and distance from the commercial centers of Brookline Village and Coolidge Corner delayed this area's initial development, the process occurred quickly in the last decades of the 19th century. The original Aspinwall and Stearns farms and estates were replaced by distinguished "suburban" residences for businessmen and professionals wishing to move to the country. The presence of the Brookline Branch rail line, and especially the Longwood, Chapel, and Brookline Village stations, helped facilitate this suburban growth.

In the first decade of the 21<sup>st</sup> century, the expanding economy and the Lawrence neighborhood's proximity to the Longwood Medical Area of Boston led to renewed development pressure and threats to numerous historic buildings on St. Francis Street, Saint Paul Street, Sewall Avenue, Harrison Street, Kent Street, and Longwood Avenue, specifically from the medical and educational institutions in the nearby Longwood Medical Area. Thus, in 2011, the Lawrence LHD was established as a tool for addressing these development pressures in the neighborhood. As the third decade of the 21<sup>st</sup> century begins, the residential area north

of the existing Lawrence LHD -- along Kent Street between Longwood Avenue and Colchester Street -- faces similar development pressures with a proposal to demolish two of the earliest historic single-family houses and potentially develop the two parcels more intensely with newly-constructed condominium buildings.

#### Local Historic Districts in the Commonwealth of Massachusetts

The first Local Historic Districts (LHDs) in Massachusetts were established in 1955 to protect historic resources on Nantucket and Boston's Beacon Hill. Currently, more than 250 multi-property LHDs have been established statewide under Massachusetts General Law Chapter 40C (MGL Chapter 40C), the Historic Districts Act. Offering the strongest protection possible for the preservation of historic buildings, structures, and community fabric, LHDs provide a mechanism to manage change -- and avoid inappropriate alteration and demolition -- by granting a community's historic district commission responsibility to review significant exterior alterations to properties located within the boundaries of an LHD and visible from a public way, park, or body of water. Brookline currently has eight (8) LHDs. Cottage Farm, established by Town Meeting in 1979, was the first in Brookline, followed by Pill Hill (1983), Graffam-McKay (2004), Chestnut Hill North (2005), Harvard Avenue (2005), Lawrence (2011), Wild-Sargent (2012), and Crowninshield (2015). For more information about Brookline's LHDs and the design review for these areas, *Design Guidelines for Local Historic Districts*, (2003; rev. ed. 2006; forthcoming rev. ed. 2021) is available on the town website and provides a comprehensive overview of how these districts function (<http://www.brooklinema.gov/Preservation/>).

Section 2 of MGL Chapter 40C sets forth the purpose of local historic districts, as follows: *The purpose of this chapter is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the commonwealth and its cities and towns or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.*

Process and Timeline for Proposal

This Preliminary Study Report has been taken up by the Brookline Preservation Commission, acting as the Local Historic District Study Committee (LHDSC), in accordance with the provisions of MGL Chapter 40C. The LHDSC is required to submit the Preliminary Study Report to the Massachusetts Historical Commission (MHC) and the municipal Planning Board sixty (60) days before the public hearing that is required prior to a vote of Town Meeting. While the MHC will vote on the acceptance of the Preliminary Study Report, the MHC's role is advisory only. The municipal Planning Board has no statutory role other than being a recipient of the Preliminary Study Report. At least fourteen (14) days before the date of the public hearing, all property owners within the proposed extension of the Lawrence LHD must be given written notice of the public hearing. Following the public hearing, the LHDSC will prepare the Final Study Report, which will then be submitted for consideration at the 2021 Spring Town Meeting.

Longwood Historic District

The Brookline Historical Commission (predecessor to the Preservation Commission) nominated the Longwood Historic District to the National Register of Historic Places (the NR) in 1978 (NR# 78000460) (see Appendix B). Extending south of Beacon Street to Longwood Avenue, along the west side of the Muddy River, the Longwood NR District documented an early Brookline neighborhood with a number of landmark buildings.

Longwood NR District is a 52 acre residential area in the eastern side of Brookline and the properties in the proposed extension of the Lawrence LHD are all within the boundaries of the Longwood NR District. The landscape of the neighborhood is primarily level uplands above the depressed ravine of the Muddy River. The district is attractively landscaped with tall trees, shrubs, well-maintained lawns, and gardens and hedges. Longwood Square, also known as the Longwood Mall, is the Longwood NR District's public open space. The MBTA tracks are bounded by a wooded buffer strip. The district's street layout is a regular orthogonal pattern,



in contrast to most other areas of Brookline. The original residential character of the neighborhood has been maintained since its establishment in the mid-19th century.

The Longwood NR District is significant both for its architecture as well as its history. Prior to 1850, there was little development in the area immediately north of the Muddy River. Colchester Street, originally known as March Road, was the only thoroughfare in the district. Although the Boston and Worcester Railroad passed along the Charles River to the north, it was not until the arrival of the Brookline Branch Railroad (now the MBTA D-Line) that full-scale subdivision and construction began in the neighborhood. David Sears was largely responsible for the area's development; by ca. 1820/1, Sears had purchased more than 200 acres in the area of Judge Samuel Sewall's 17th century estate, intending to convert the meadowlands and marshes into a residential community. Sears bought about 500 acres that stretched from the Boston border on the east to Pleasant Street, and from the Charles River on the north across the Muddy River into Boston on the south, encompassing today's Longwood Medical Area. Eventually, the portion north of Beacon Street was called Cottage Farm, while the area south of Beacon Street retained the Longwood name.

Portions of this NR district were later protected by the Lawrence LHD, primarily because redevelopment pressures increased significantly throughout the neighborhood between 2000 and 2011. An ongoing concern was the push to develop from institutions, particularly the medical and educational institutions, in the nearby Boston Longwood Medical Area. Today, the Lawrence/Longwood area includes a small number of educational facilities, two churches, and a sampling of apartment buildings, including the historically significant Longwood Towers (ca. 1923). Despite constant Beacon Street traffic, denser apartment development to the west, and the nearby hospital complex in Boston, the Longwood NR District and Lawrence LHD together retain significant integrity as a late 19th and early 20th century landscaped residential area that preserves a wide and representative range of many styles of mid-to-late 19th century domestic architecture found in urban-suburban Boston, with the predominant building materials being stone, brick, shingles, stucco, and wood.

By the mid-20th century, the Kent Street area north of Longwood Avenue had become home to several private area institutions, but like the Lawrence LHD to the south, the neighborhood maintains its traditional residential character, home to Brookline professionals who desire to live in close proximity to the medical area and downtown Boston. Kent Street between Longwood Avenue and Colchester Street retains its historic streetscape and architectural integrity, nearly unchanged for 100 years. Local historic district protection of this significant and picturesque part of the neighborhood is essential to ensure that this well-preserved character is responsibly preserved and managed into the future.

## **II. METHODOLOGY**

### Neighborhood Interest in and Need for Preservation

The seven (7) historic properties proposed to be added to the Lawrence LHD are located in the westernmost area of the Longwood NR District and directly north of Longwood Avenue and the northern boundary of the Lawrence LHD. The genesis of the proposed inclusion of these properties within an expanded Lawrence LHD is the continued and intense development pressure along Kent Street, with the proposed demolition of two historic buildings along the east side of Kent Street north of Longwood Avenue—116 Colchester Street and 295 Kent Street—in 2020. Four of the seven buildings proposed for inclusion in the Lawrence LHD are significant residences dating from the mid-19th to the early 20th centuries.

South of the proposed extension of the Lawrence LHD, in the present Lawrence LHD, redevelopment pressures increased significantly between 2000 and 2011. Pressure from institutions posed an ongoing concern, particularly the medical and educational institutions in the nearby Boston Longwood Medical Area that were expanding and seeking to demolish structures in order to construct non-residential buildings that would not be consonant with the residential character of the area. Redevelopment pressures in this area of Brookline were, in fact, the motivation for the establishment of the Lawrence LHD.

In 2020, the proposed demolition of another two historic properties on Kent and Colchester Street prompted property owners within that immediate area to coordinate the present Preliminary Study Report and propose an extension to the nearby Lawrence LHD to ensure both the preservation of the significant historic properties in this neighborhood and provide that future proposals for redevelopment are managed appropriately, including with preservation as a goal.

#### Brookline Comprehensive Plan

The *2005-2015 Brookline Comprehensive Plan*, drafted in 2002, included the goals of supporting on-going survey work of the Town's historic places and neighborhoods and identifying those areas eligible for listing as local historic districts. The Plan's "Visions and Recommendations" supports the preservation of neighborhoods and districts ("*the unique and attractive qualities of Brookline's neighborhoods and districts will be maintained*") and historic resources ("*...continue to respect and utilize structures and landscapes with historic significance that are part of its legacy for the future*"). Further, the Comprehensive Plan's Historic Preservation Strategies section states that while the "...Historic Resources element [of the Plan] outlines the Town's overall approach to historic preservation...the historic resources in a neighborhood or district can be an important part of what makes it unique and attractive."

#### Other Town Planning Studies in the Longwood/Lawrence Neighborhoods

In 2005, a Neighborhood Conservation District (NCD) Study commissioned by the Brookline Planning and Community Development Department suggested LHD designation for the North Lawrence area, defined by Longwood and Sewall Avenues between St. Paul Street on the west and Kent Street on the east. Eventually, the western part of this area was designated as the Greater Toxteth Neighborhood Conservation District (nullified by the 2019 Land Court decision "Hancock Village I, LLC vs. The Town of Brookline") and the eastern part of the NCD eventually became the Lawrence LHD. Underlying much of the existing Lawrence LHD, and all of the area proposed for inclusion as an extension of this LHD, is the Longwood NR District. Unlike LHD

status, however, listing on the NR is primarily honorific and offers no permanent protection or preservation for the listed buildings and structures.

#### Preliminary Study Report Documentation

The basis of this current Preliminary Study Report is the *Establishment of the Lawrence Local Historic District*, authored by Timothy Orwig, Ph.D. in 2011 to promote the establishment of the Lawrence LHD, and further edited in 2020 to represent with accuracy the scope of the 2011 approved Lawrence LHD. Additional research for this Preliminary Study Report included consultation of the records and files contained in the Massachusetts Cultural Resource Information System (MACRIS). Specifically, data sources include the historic building survey forms and the state's reconnaissance survey for the Town of Brookline, prepared by the Town of Brookline's Preservation staff as well as documentation from primary and secondary source research conducted by that staff over many years, including local and regional newspapers; Brookline's building permits, deeds and plans contained in the Norfolk County Registry of Deeds; town atlases; and two NR nominations: the 1978 Longwood NR District (NR# 78000460) and the 1985 Brookline Multiple Resource Area nomination (NR #64000274). Limitations on primary source research in 2020 resulted from the Covid-19 pandemic and resulting use and access restrictions at many libraries and archives. Digital resources supplemented what might normally have been accessible in person, including those at the Brookline Historical Society (digitized maps, reports and books), as well as the public records available through the Norfolk County Registry of Deeds.

Secondary sources for Brookline's history include: *The Chronicle Souvenir of the Bicentennial* (Brookline: Riverdale Press, 1905); Samuel Aspinwall Goddard, *Recollections of Brookline: Being an Account of the Houses, the Families, and the Roads in Brookline, in the Years 1800 to 1810* (Birmingham, England: E.C. Osborne, 1873); Harriet F. Woods, *Historical Sketches of Brookline, Mass.* (Boston: Davis, 1874); Charles Knowles Bolton, *Brookline: The History of a Favored Town*, Brookline: C.A.W. Spencer, 1897); Theodore F. Jones, *Land Ownership in Brookline from the First Settlement* (Brookline Historical Society, 1923); Greer Hardwicke, *Built by Brookline*

(Brookline Preservation Commission, 1990; rev. ed. provided by author); Roger Reed and Greer Hardwicke, *Carriage House to Auto House* (Brookline Preservation Commission, 2002); and Keith Morgan, ed., *Buildings of Massachusetts: Metropolitan Boston* (Charlottesville: University of Virginia Press, 2009).

#### Public Hearings and Town Meeting

The Preservation Commission held two public hearings on the proposed extension of the Lawrence LHD: one on December 8, 2020 and the other on December 29, 2020. The requisite Public Hearing prior to introduction of this proposal at Town Meeting will be held on March 1, 2021. Finally, the proposed extension of the Lawrence LHD will be considered at the Spring 2021 Town Meeting, which begins on May 19, 2021.

### **III. SIGNIFICANCE**

#### Historical Significance

##### *17<sup>th</sup> to Mid-19<sup>th</sup> Centuries*

The first European-American landholder in this area of Brookline was William Coleborne, who received 150 acres in the Muddy River area from the Town of Boston on January 8, 1638. His property extended from the shore of the Muddy River and its marshes a long distance westward, and was situated just to the north of the 250 acre allotment made to the Reverend John Cotton on that same day. Coleborne did not live on the land, but remained in Boston and rented it out. History records Coleborne as one of a group of “absentee landlords” from Boston, including the Leveretts, Olivers, and Hibbinses, whose heirs within a generation or two had sold their land to other families. Until the 19th century, however, several of the largest landholders in Brookline lived on their properties in the summer months, using them as farms and country homes and residing in Boston during the winters.

In 1650, the Coleborne land closest to the Muddy River was sold to Peter Aspinwall and John Sharp (d. 1676), whose families would continue to own nearly all of the neighborhood for the next two centuries, until after the Civil War. According to a memoir by Samuel Aspinwall

Goddard, the Aspinwalls came to Boston from Liverpool in 1628, and to Brookline shortly afterwards. Peter Aspinwall built a house on the land in 1660, across Aspinwall Avenue from where St. Paul's Episcopal Church stands today.

By 1693, it was noted that ownership of the properties had descended through the families to Peter Aspinwall's son Samuel Aspinwall (d. 1727) and John Sharp's sons Robert and William Sharp. By 1746, Thomas Aspinwall (d. 1774), Samuel Aspinwall's son, had consolidated holdings along the Muddy River and north into present-day Longwood neighborhood, with the exception of a small block of land owned by Robert Sharp (1688-1765). Before his death in 1774 on the eve of independence, Thomas Aspinwall divided his farm between his two sons. He gave the land to the north of today's Stearns Road/Newell Road corridor to Col. Thomas Aspinwall (1734-99). His other son, Dr. William Aspinwall, (1743-1823) received the land to the south of Stearns Road/Newell Road. Col. Thomas Aspinwall's sons, according to Theodore Jones, had financial troubles and were forced to sell off their father's lands north of Stearns Road/Newell Road and in the Longwood section. In 1812 Charles Stearns (1771-1864) bought the southwestern quarter of Thomas Aspinwall's holdings, roughly equivalent to the Longwood Playground and points immediately north and west (to Sewall Avenue and beyond). By 1822, Stearns also had acquired the southern arm of the old Sharp marshland. Col. Thomas Aspinwall's son, Thomas Aspinwall (1769-1843), held on to the southeastern quarter of his family's farm (today the upper Kent Street corridor from Newell to Sewall) until 1833, when he sold that to Stearns as well.

As new transportation routes were laid out, contiguous land increased in value because of its development potential. Some of the Sewall family's original property was purchased in 1820/1 by David Sears, a patron of the arts, a founder of the Boston Atheneum, and a member of the Boston and Roxbury Mill Corporation, the company responsible for damming the Back Bay and launching residential development in the filled-in area. The building of the Mill Dam road out of Boston in 1821 improved access to Brookline, enhancing the Longwood area's development potential. Sears began buying the low-lying pasturelands and by 1830, some of the squares

were laid (Knyvet, Longwood, Mason, and Winthrop remain today) around which he would later build country houses for his friends, family, and associates. In 1848, he hired Alexander Wadsworth, a civil engineer, to lay out his estate as a parklike residential neighborhood which Sears called "Longwood" after Napoleon's estate on St. Helena. An avid amateur horticulturalist, Sears planted some 14,000 trees in the area (including the European beech trees imported from Europe that remain on Longwood Mall) and built large country residences intended for seasonal occupation.

### *Mid- to-Late 19<sup>th</sup> Centuries*

A Brookline map from 1844 shows that the Longwood area was still largely swampy forest and marsh meadows. The closest houses were the William Aspinwall House (c. 1660, demolished 1891) on a dead-end lane near what today is Aspinwall Avenue and Saint Paul Street, the Charles Stearns house at Harvard Street and Sewall Avenue, and the Colonel Thomas Aspinwall and David Sears houses (both since demolished) on the north side of Sewall Avenue. None of the current streets within the Lawrence LHD or the proposed extension of this LHD appear on the 1844 map, but the area was on the brink of becoming a residential suburb of Boston.

By 1847, the railroad had become an important transportation development in the area, with a branch of the Boston and Albany Railroad running between Boston and Brookline Village. By 1852, depots were added at Longwood (along the Muddy River just beyond the eastern edge of the neighborhood), Brookline Hills, and Reservoir and continuing west into Newton. The railway station at Brookline Village, as well as the two closest to the Longwood neighborhood and the Lawrence LHD -- the Chapel and Longwood stations (consolidated in the 1880s into the Longwood station) -- opened the area to residential development, although there appears to have been little development of any sort in this area until after the Civil War. Nonetheless, the commuter railroad clearly stimulated growth in this area of Brookline, resulting in picturesque subdivisions around Brookline Village and early Gothic style stone houses in the

London manner around the Longwood section, with several residential subdivisions laid out around Muddy River uplands.

Beginning in 1850, Sears and his neighbor Amos A. Lawrence (1814-1886) had begun to develop the Cottage Farm neighborhood and continued to develop Longwood, which became one of the most fashionable areas in metropolitan Boston. The 1874 Brookline atlas shows the Kent Street corridor from Francis Street northward to Longwood Avenue and beyond beginning to develop the large houses on sizable lots that would characterize the Longwood NR district. Longwood Avenue, Sewall Avenue, and Kent Street were lined with large, refined homes, many of which only lasted 40 years or so, with economic demand driving their conversion into smaller single-family homes and apartment blocks.

### *Late 19<sup>th</sup> to 20<sup>th</sup> Centuries*

With the arrival of the electric streetcar in the late 1880s, much of Brookline, particularly in the northern portion of the town, took on a “streetcar suburb” character, much of which is retained today. As the population of the town grew in the last quarter of the 19<sup>th</sup> century and into the 20th century, the electric streetcars and new utilities supported more development. Unlike the southern portion of Brookline, where large country estates persisted, the north section of the town grew rapidly with a wide variety of house types in a full range of styles, including in the Longwood neighborhood.

### Architectural Significance

This area of Longwood is architecturally significant because it is one of two areas of the town (the other being Cottage Farm) that represent an unprecedented “suburban” character that began to develop in Brookline during the early part of the 19th century, with the period between 1820 and the 1880s characterized first by the development of suburban estates and later by their planned subdivision. Cottage Farm and Longwood became two of the earliest planned residential subdivisions in the Boston area, developed with architect-designed villas in picturesque styles.



## 10.A.

As discussed above, improved transportation via the Mill Dam Road from Boston permitted David Sears to develop the northeast portion of Brookline into the Longwood area, which became one of Boston's earliest suburbs. High-style, architect-designed villas built of locally quarried Roxbury puddingstone in variations of the Gothic Revival style were joined by new early Mansards, including several stone Mansard cottages found on Colchester and Kent Streets, and in its earliest design, with a high style tower, at 287 Kent Street. Further, this block long section of Kent Street reveals a development pattern not unfamiliar in rapidly-developing urban communities of the late 19<sup>th</sup> and early 20<sup>th</sup> century, with large early estates (in this case, mostly from the 1870s) demolished and subdivided to produce, for example, the three Kent Street lots (282, 288, and 294) in the early part of the 20th century. The block's four other properties were preserved as single-family residences until rehabilitated into condominium ownership or institutional ownership.

By the first decade of the 20<sup>th</sup> century, some of the mid-19th century estates in the Longwood area were replaced with large Colonial Revival houses, a style generally symmetrical and rectangular and formal in design. Wood-framed and clapboard-sheathed, these buildings were often decoratively ornamented with features such as Palladian windows, pedimented dormers, dentilled cornices, and sidelights flanking center entrances. In more affluent neighborhoods such as Longwood, Fisher Hill, and Chestnut Hill, these houses were constructed on a grand scale, including Hartwell, Richardson and Driver's design for 300 Kent Street, which features monumental columns among its many other fine Colonial Revival details.

This neighborhood of Brookline retains a significant amount of its original as well as evolved character: all of the properties maintain landscaped settings with building placements and setbacks that are uniform, creating a streetscape appearance that is rhythmic and consistent.

### Properties Proposed for Inclusion in the Lawrence LHD

The seven (7) historic properties proposed for inclusion in the existing Lawrence LHD (see Appendix C) are contributing properties to the Longwood NR District established in 1978:

- 116 Colchester Street
- 282 Kent Street
- 287 Kent Street
- 288 Kent Street
- 294 Kent Street
- 295 Kent Street
- 300 Kent Street

The buildings date between ca. 1870 and ca. 1935 and represent both the later 19th century style of property development and architectural design as well as the type of speculative property development and subdivision of larger estate properties that began to occur in the first few decades of the 20th century, and accelerated in the mid-century, in urban suburbs such as Brookline.

All of the buildings in the proposed extension of the Lawrence LHD are well-preserved and intact, and three (287 Kent Street, 295 Kent Street, and 300 Kent Street) clearly relay their original architectural styles. The building at the fourth large property (116 Colchester Street) was almost certainly constructed in ca. 1870, then comprehensively transformed, reflecting early 20th-century progressive ideas. Thus, it too relays its architectural significance and contributes to the character of this neighborhood. Finally, the three substantial Tudor Revival houses in the proposed extension (282 Kent Street, 288, Kent Street, and 294 Kent Street) were all built by the same builders/developers, Harry and Goldie Sklaver, and designed by the same architect, William J. Freethy. They represent the design and construction choices of the third decade of the 20<sup>th</sup> century, and are the last substantial architectural changes to the area of Longwood that is proposed for inclusion in the Lawrence LHD.

The subject parcels range in size from 9,402 sq. ft (294 Kent Street) to 44,320 sq. ft (287 Kent Street). Although six are zoned SC-7 and one (300 Kent) is SC-10, their current uses are single-family (three of the subject properties), condominium (two of the subject properties), and institutional (two of the subject properties). Four (4) of the parcels (287 Kent Street, 295 Kent Street, 300 Kent Street, and 116 Colchester Street) retain their original lot lines as large, residential/estate-like landscaped lots. The remaining three parcels (282, 288 and 294 Kent Street) are smaller single-family houses on small lots that resulted from the ca. 1934 subdivision of a larger parcel last owned by David P. Kimball et al.

The style and materials of these seven houses is also quite varied but representative of the evolution of the neighborhood: Italianate, Mansard, Colonial Revival, and Tudor Revival with wood-frame as well as masonry structural systems, and masonry (stone and brick), wood clapboarding, and stucco all represented as exterior sidewall sheathing materials. Architects for four of the seven buildings have been identified, most notably for 300 Kent Street, which was designed by the prolific and well-known firm of Hartwell, Richardson, and Driver in 1905. Architect William J. Freethy designed the three smaller brick houses, likely on speculation for developers Harry Sklaver and his wife Goldie, in ca. 1934/5.

### **COLCHESTER STREET**

#### **116 Colchester Street. BESSIE ONG HOUSE. Likely 1874 with ca. 1925/7 alterations.**

Constructed as a single-family residential dwelling in the Colonial Revival style. Howard Doane, Builder; architect is unknown. This is the northernmost property in the proposed extension of the Lawrence LHD, anchoring the west termination of Colchester Street at Kent Street. An 1881 deed transferring the property at 116 Colchester Street from Fisher Ames to Andrew Preston confirms that a dwelling house existed on this parcel, undoubtedly the same house depicted on the 1874 Brookline Atlas. In 1908, Bessie Ong received title to the property from her father, Andrew Preston, again with a dwelling house. In 1925, Augustine Bradford Conant and his wife Gwendolyn then purchased the property from Bessie W. Preston (formerly Bessie

## 10.A.

Ong) and resided there until 1941, when the Conants sold the property to Wheelock College (then the Wheelock School). After 1944, 116 Colchester Street was operated as a residence hall known as Colchester House. In 2017, Wheelock College sold the property to its current owner, Longwood Ventures LLC, which in 2020 proposed demolition of the building.

The existing building clearly took its current form between 1919 and 1927 (see the Preservation Commission Demolition Application Report, August 2020), based both on atlas research (no building permits have been identified for this parcel) as well as general architectural character of the building. While the 1908 deed is further confirmation that a dwelling existed on this parcel, it is not clear whether the current building replaced the earlier (pre-1881) house or whether the pre-1881 house was extensively altered and enlarged between 1919 and 1927, resulting in the building's current appearance.

### Known Alterations

**1963** Fire Escape

**1996** All Windows Replaced

## **KENT STREET**

### **282 Kent Street. GOLDIE SKLAVER HOUSE 1. (1935).**

Constructed as a single-family residential dwelling in the Tudor Revival style. William J. Freethy, Architect. 282 Kent Street is shown as lot 6 on a "Plan of Land in Brookline, Massachusetts, dated July 5, 1935, Henry F. Bryant & Son, Engineers," #278 of 1934, recorded in the Norfolk County Registry of Deeds, one of three parcels created from the demolition of the 19th-century estate last owned by David P. Kimball et al. Harry and Goldie Sklaver were active builders/developers working in Brookline in the 1930s and 1940s, including developing the smaller house lots along Kent Street between Sewall Avenue and Beacon Street in the later 1930s.

### **287 Kent Street. ISAAC SEARS HOUSE. 1872.**

Constructed as a single-family residential dwelling, generally in the High Victorian/Queen Anne style. Also historically known as the Sears-Powers House. Architect and builder are unknown. 287 Kent Street--which includes a carriage house numbered 289 Kent Street--a significant and prominent property that overlooks the intersection of Kent Street and Longwood Avenue, was originally part of David Sear's estate, on land he established as the Longwood development in the 1840s, one of many constructed in the Longwood area by members of the Sears family. Built by Isaac H. Sears and his wife Frances, 287 Kent Street is one of the few remaining houses built by a descendant of David Sears. By 1883, the house was the residence of William W. Potter, who in 1889 hired architect William G. Preston to design a carriage barn for the rear of the property (plans survive in the Preston Collection at the Boston Public Library). By 1907, Llewellyn Powers had acquired the property and hired architect H.M. Stephenson to extensively remodel the house, including removing many of the original Victorian features. The house was later converted to a student residence hall by Wheelock College; in 1982, the college converted the building into six condominiums.

#### Known Alterations

**1889** Carriage Barn constructed (later undated alterations have occurred).

**1907** Major alteration/additions to the house, including removal of Victorian features, alterations to the roof (including raising it to accommodate removal of the entrance portico and its replacement with neo-classical style pilasters, entablature and iron balcony), and replacing small dormers with larger hip-roof dormers), and the addition of a 48x34 "Garden House."

**1982** Converted to condominiums

#### **288 Kent Street. HARRY SKLAVER HOUSE. 1935.**

Single-family residential dwelling in the Tudor Revival style. William J. Freethy, Architect. 288 Kent Street is shown as lot 8 on a "Plan of Land in Brookline, Massachusetts, dated July 5, 1935, Henry F. Bryant & Son, Engineers," #278 of 1934, recorded with Norfolk District Deeds, one of three parcels created from the demolition of the 19th-century estate last owned by David P. Kimball et al. Harry and Goldie Sklaver were active builders/developers working in Brookline in

the 1930s and 1940s, including developing the smaller house lots along Kent Street between Sewall Avenue and Beacon Street in the later 1930s.

**294 Kent Street. GOLDIE SKLAVER HOUSE 2. 1935.**

Single-family residential dwelling. Tudor Revival style. William J. Freethy, Architect. 294 Kent Street is shown as lot 7 on a "Plan of Land in Brookline, Massachusetts, dated July 5, 1935, Henry F. Bryant & Son, Engineers," #278 of 1935, recorded with Norfolk District Deeds one of three parcels created from the demolition of the 19th-century estate last owned by David P. Kimball et al. Harry and Goldie Sklaver were active builders/developers working in Brookline in the 1930s and 1940s, including developing the smaller house lots along Kent Street between Sewall Avenue and Beacon Street in the later 1930s.

Known Alterations

**1946.** Construction of a 5x12 addition to the house

**295 Kent Street. DR. SAMUEL DANA HAYES HOUSE. 1869/70.**

Constructed as a single-family residential dwelling in the Second Empire (or Mansard) style. Architect and builder are unknown. Originally part of the Stearns Estate, the house at 295 Kent Street was originally constructed for Dr. Samuel Dana Hayes (see the Preservation Commission Demolition Application Report, August 2020). Hayes, his wife Margaret, and their daughter Beatrice Hope resided at the property together until 1880, when Hayes disappeared, having paid off debts and leaving a letter explaining that his wife would have power of attorney to dispose of his business. Margaret Hayes retained ownership of 295 Kent Street until 1901, when it was sold to Ida Sherman Damon. Damon died in 1938, leaving the property to her husband J. Linfield Damon Jr., who owned the property throughout the first half of the 20th century. Upon Damon's death in 1963, his children sold the property to Wheelock College, which used the building as its President's House. In 2017, Wheelock College sold the property to its current owner, Longwood Ventures LLC, which in 2020 proposed demolition of the building.

Known Alterations

**1916** Demolition of an earlier converted automobile garage and construction of the current detached garage located in the southeast portion of the property

**300 Kent Street. SILAS PEAVY HOUSE. 1905.**

Constructed as a single-family residential dwelling in the Colonial Revival style. Hartwell, Richardson, and Driver, Architects. Constructed for Silas Peavy, who was associated with J. Peavy and Sons in Boston, wholesale clothing dealers. Boston architectural firm Hartwell, Richardson, and Driver were well-known for their designs in the Colonial Revival style, and this house, which replaced an earlier one on the site, exemplifies the style with its classical detailing. The house has a monumental façade portico featuring Ionic columns and a side porch featuring Doric columns, pilastered cornerboards, pedimented dormers, decorative dentils and modillions, and a porte-cochere at the north end of the house.

Known Alterations

**1937** Rear stable demolished

**1989** Converted to condominium; carport constructed

**1994** New roof railing; columns replaced.

Ownership and Use Patterns

The ownership of the houses in the proposed expansion area was entirely residential until the mid-20th century, when two of the single-family dwellings were converted to institutional-residential use (116 Colchester Street and 295 Kent Street). By the 1980s, two of the largest properties were converted to condominium ownership, which divided each property into five (300 Kent Street) and six (287 Kent Street) living units but substantially preserved the exterior appearance of both buildings and their landscapes.

**IV. BOUNDARY DESCRIPTION AND JUSTIFICATION**

The boundaries of the proposed expansion of the Lawrence LHD align with the tax assessor's outer, non-abutting property lines of the seven properties proposed for inclusion and allow for

public visibility of all of the properties from several public ways, including Kent Street, Colchester Street, and Longwood Avenue, with partial views from Sewall Avenue as well. Across Longwood Avenue to the south of the proposed extension is the existing Lawrence LHD; the proposed expansion would incorporate that part of Longwood Avenue abutting the present Lawrence LHD.

To the east of the proposed LHD extension is Longwood Towers, a ca. 1923 complex of three multi-story apartment buildings between Colchester and Chapel Streets. To the north of the proposed LHD extension are single-family, residential properties. Abutting the proposed extension, along Longwood Avenue and Marshal Street are single family houses mostly slightly smaller in scale than those proposed for the LHD extension and generally dating later, while across Marshal Street are three to four story brick apartment buildings dating to the early to mid-20th century, representing significantly denser residential living with little or no landscaping surrounding the dwelling units.

The boundary of the proposed extension of the Lawrence LHD begins at the corner of the existing Lawrence LHD at the northeast corner of 269 Kent Street. It then crosses Longwood Avenue to the southern lot line of 287 Kent Street and continues east along Longwood Avenue to the east property line of 287 Kent Street. It then turns north along the east (rear) property line of 287 Kent Street and continues northwest along the northeast property lines of 295 Kent Street and 116 Colchester Street. At the northeast corner of 116 Colchester Street, it turns southwest along the southern side of Colchester Street and the northwest property line of 116 Colchester Street. It then takes a short jog southeast along the center of Kent Street, then turns southwest and continues initially southwest following 300 Kent Street's property line though a total of eight corners, to the northwest corner of 294 Kent Street, where it continues south along the west (rear) property lines of 294 Kent Street, 288 Kent Street, and 282 Kent Street to the southeast corner of 282 Kent Street. There it continues east along the south property line of 282 Kent Street to a point opposite the northeast corner of 173 Kent Street, where it crosses Longwood Avenue to the corner of the existing LHD, which it then follows to



the beginning point of the proposed extension of the Lawrence LHD, at the northeast corner of 269 Kent Street.

## **V. CONCLUSION**

The majority of the residents of that portion of Kent Street that lies north of Longwood Avenue and south of Colchester Street are in agreement that their neighborhood deserves the recognition and protection of being in a Local Historic District, in accordance with the provisions of Massachusetts General Laws, Chapter 40C, the Historic Districts Act. This area abuts the already-established Lawrence LHD, and because the properties are generally similar in character and historic development, adding these seven (7) historic properties to the Lawrence LHD seems the most appropriate means of achieving the goal of LHD status.







The Brookline Preservation Commission, in its role as the Local Historic District Study Committee, recommends the extension of the Lawrence LHD with the addition of these seven historic properties, as provided for in MGL Chapter 40C, the Historic Districts Act.

## **VI. APPENDICES**

- A. Map of Proposed Extension to the Lawrence Local Historic District**
- B. Map of the Longwood Historic District**
- C. Property Index**
- D. Photographs**

# Lawrence Local Historic District

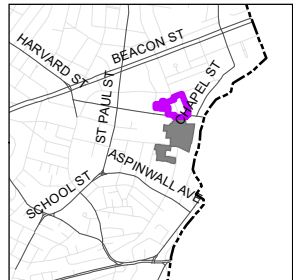
Town of Brookline  
Massachusetts

-  Proposed Lawrence LHD Boundary Increase
-  Current Lawrence LHD
-  Building Footprints
-  Property Lines
-  Street Edges
-  Town Boundary

## Data Sources

The information shown on this map is from the Brookline Geographic Information System (GIS) database

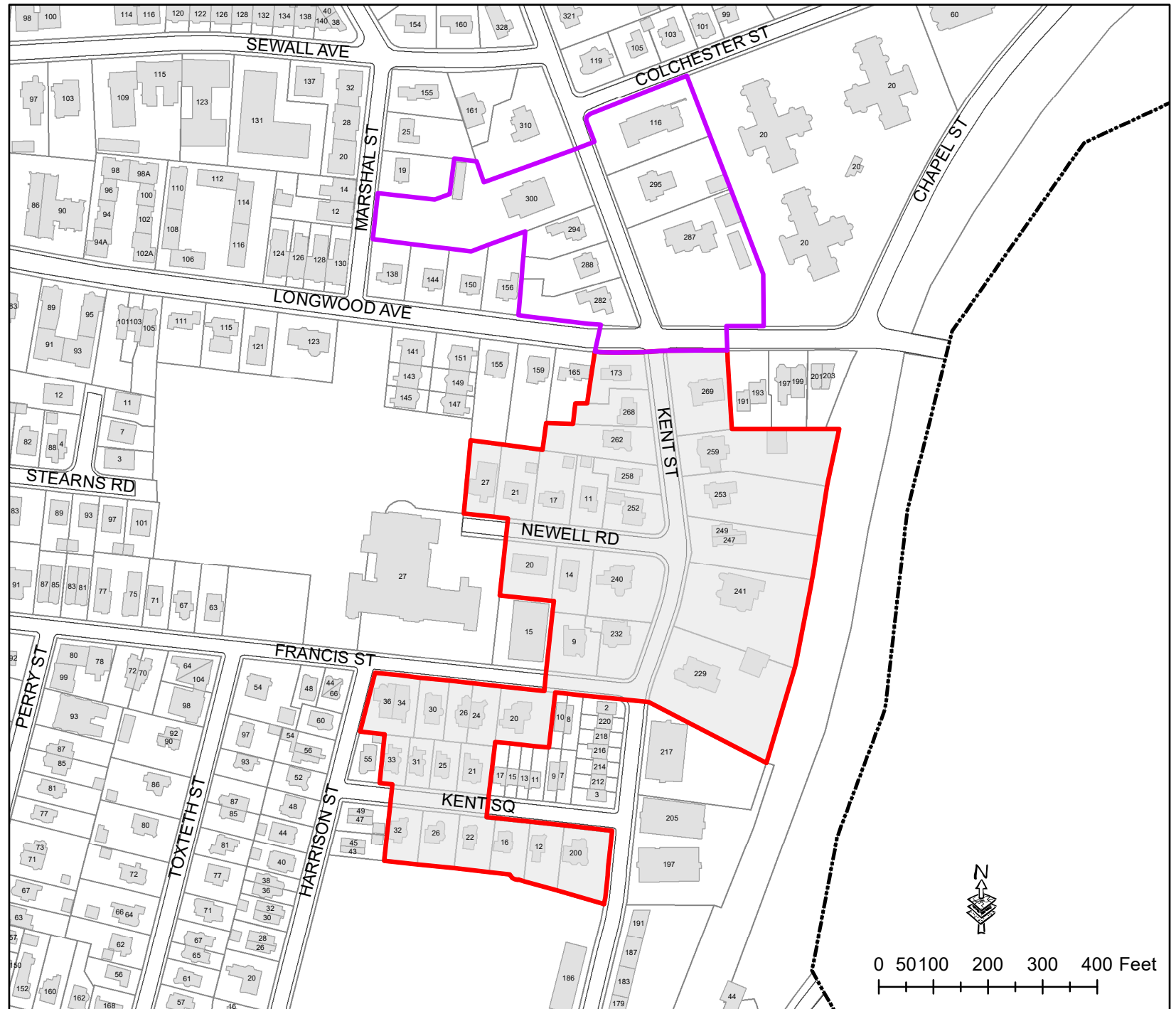
## Locus Map



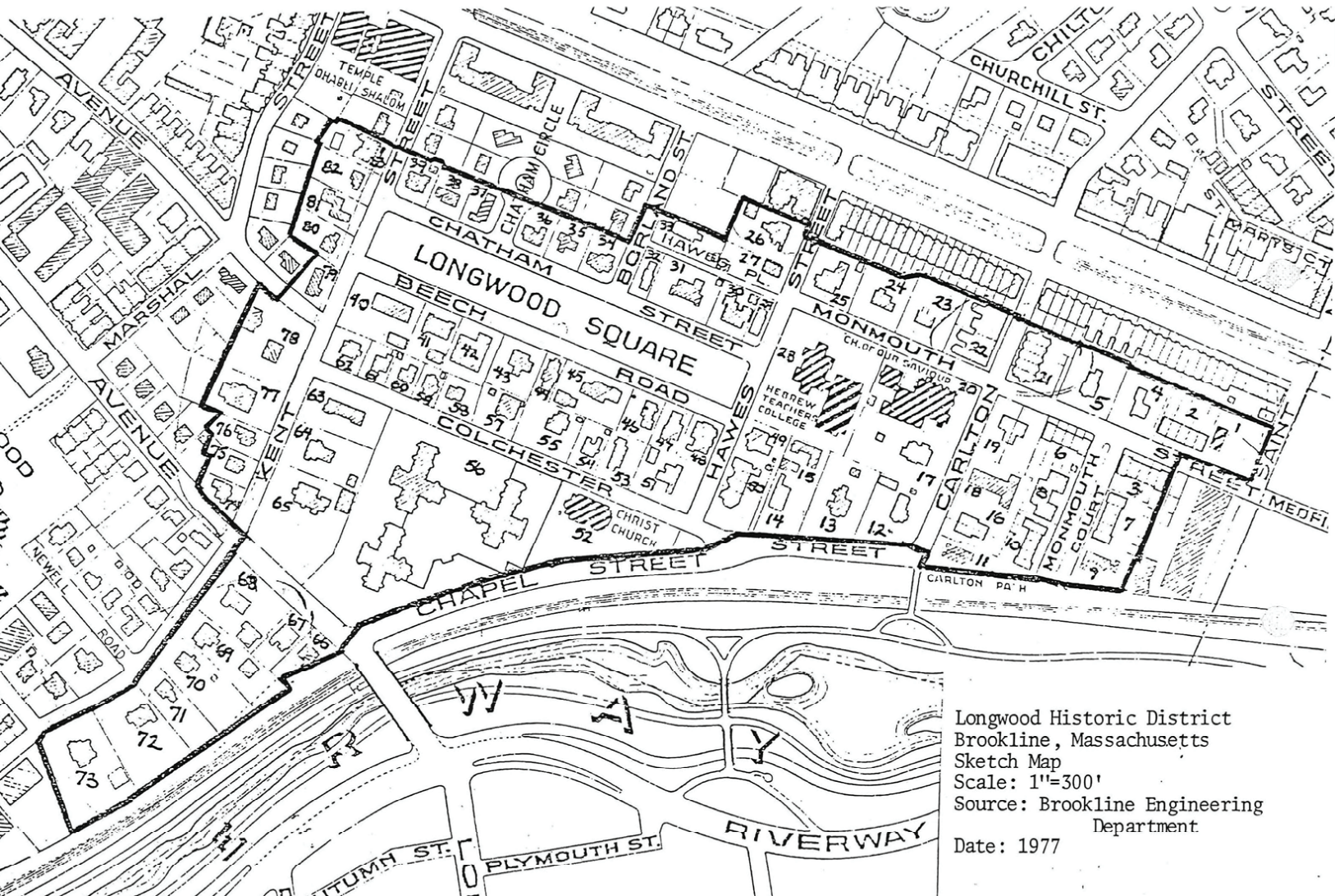
0 50 100 200 Feet



Map created by Brookline GIS on: 2/24/2021



APPENDIX B  
LONGWOOD NATIONAL REGISTER HISTORIC DISTRICT



STREET	COLCHESTER	KENT	KENT	KENT	KENT	KENT	KENT
STREET #	116	282	287-289	288	294	295	300
PARCEL ID	121-03-00	122-03-02	121-01-01 to 121-01-06	122-03-01	122-03-00	121-02-00	122-02-00 to 122-02-05
MHC FORM #	BKL.482	BKL.489	BRK.480	BKL.488	BKL.487	BKL.481	BKL.486
# OF UNITS	unknown	1	6	1	1	Unknown	5
DATE	ca. 1870; 20th c alterations	1935	1872	1935	1935	ca. 1870	1905
SOURCE OF DATE	Atlases	Bldg Permit	Tax Lists	Bldg Permit	Bldg Permit	Bldg Dept	Bldg Permit
ARCHITECT	Unknown	William J. Freethy	Unknown; 1907 alterations by H.M.	William J. Freethy	William J. Freethy	Unknown	Hartwell, Richardson & Driver
ORIGINAL OWNER	Seth Ames	Goldie Sklaver	Isaac H. Sears	Harry Sklaver	Goldie Sklaver	Dr. Samuel D. Hayes	Silas Peavy (aka Peavey)
OTHER NAMES	Wheelock College Residence Hall	—	Sears-Powers House	—	—	Wheelock College President's House	
STYLE	Colonial Revival	Tudor Revival	Mansard	Tudor Revival	Tudor Revival	Second Empire	Colonial Revival
USE (2020)	Apts +9	One-Family	Condominium	One-Family	One-Family	Multi-Family	Condominium
ZONING	SC-7	SC-7	SC-7	SC-7	SC-7	SC-7	SC-10
PARCEL SQ.'	21,780	14,039	44,320	10,636	9,402	21,780	40,239
BUILDING SQ.'	10,471	4,293	15,000+/-	3,137	3,005	4,987	15,000+/-
PRECINCT	1	3	1	3	3	1	3





Photo 1 116 Colchester Street



Photo 2 116 Colchester Street





Photo 3 287-289 Kent Street



Photo 4 287-289 Kent Street





Photo 5 282 Kent Street

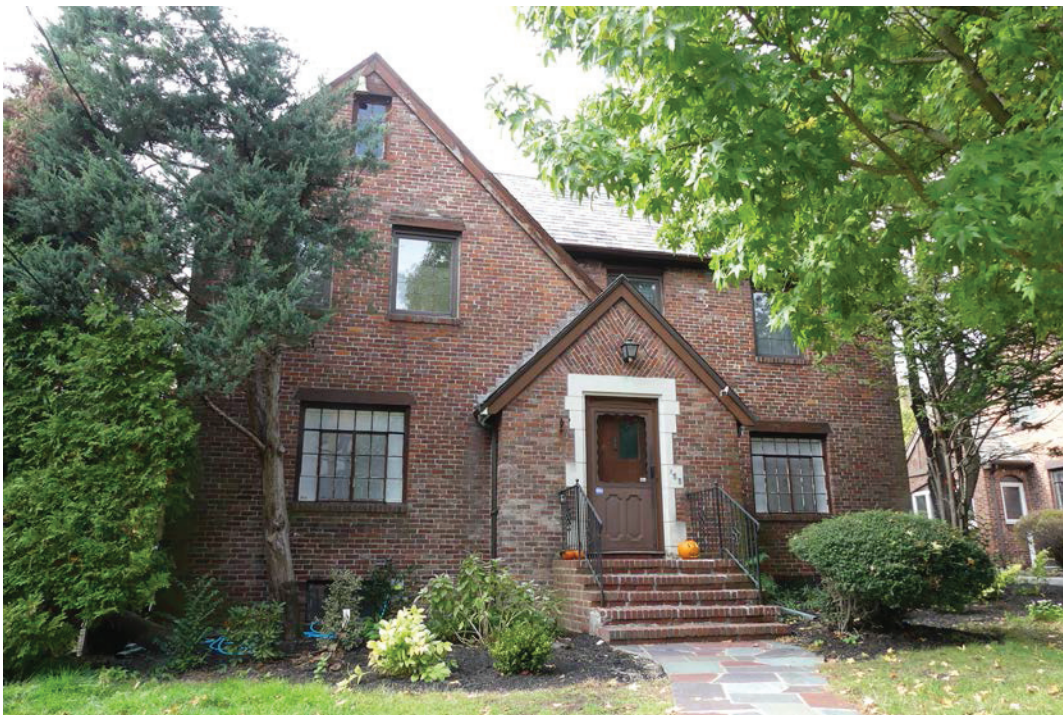


Photo 6 288 Kent Street





Photo 7 294 Kent Street



Photo 8 288 and 294 Kent Street





Photo 9 295 Kent Street



Photo 10 295 Kent Street





Photo 11 300 Kent Street



Photo 12 300 Kent Street





**Photo 13 Looking North along the Proposed East Boundary**



**Photo 14 Looking North from Longwood Ave along Kent**





**Photo 15 Looking South from Colchester to Longwood Ave**



**Photo 16 Looking South from Colchester to Longwood Ave**

ARTICLE

Petitioner: Planning Department

To see if the Town will amend Article 8.37 of the Town's General By-Laws, "Marijuana Establishments", as follows (additions are in bold, underlined text, and deletions are in bold, stricken text):

### ARTICLE 8.37 MARIJUANA ESTABLISHMENTS

#### Section 8.37.1 PURPOSE

The intent of this section is to permit Marijuana Establishments to operate pursuant to local requirements to ensure safe and appropriate implementation of Chapter 334 of the Acts of 2016 (Question #4 on the November 8, 2016 ballot), legalizing recreational Marijuana, within the community.

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

#### Section 8.37.2 DEFINITIONS

*See also* Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the regulations promulgated thereunder, as they may be amended. In the event of a conflict between the following definitions and those contained in the foregoing State laws and regulations, the definitions contained in the foregoing State laws and regulations shall govern.

- a. Cannabis Control Commission — the Massachusetts Cannabis Control Commission.
- b. **Craft Marijuana Cooperative — a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, Manufacture, Process, package, brand and Transfer Marijuana or Marijuana Products to Marijuana Establishments, but not to Consumers.**
- c. **Finished Marijuana Products —usable Marijuana, Cannabis resin or Cannabis concentrate that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.**
- d. Hemp — the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not

exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana Product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

- e. Manufacture — to compound, blend, extract, infuse or otherwise make or prepare a Marijuana Product.
- f. Marijuana — all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that “Marijuana” shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) Hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.
- g. Marijuana Accessories –equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing Marijuana into the human body.
- h. Marijuana Courier - an entity licensed by the Massachusetts Cannabis Control Commission to deliver Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers from a Marijuana Retailer, or directly to registered qualifying patients or caregivers from an Medical Marijuana Treatment Center, but is not authorized to sell Marijuana or Marijuana Products directly to consumers, registered qualifying patients or caregivers and is not authorized to wholesale, Marijuana Warehouse, process, repackage, or White Label.
- i. Marijuana Cultivator — an entity licensed by the Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transfer Marijuana to other Marijuana Establishments, but not to consumers.
- j. Marijuana Delivery Only-Marijuana-RetailerOperator — an entity licensed by the Massachusetts Cannabis Control Commission to purchase at

wholesale and Marijuana Warehouse Finished Marijuana Products and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers, but is not authorized to repackage Marijuana or Marijuana Products or operate a storefront under this license. For Marijuana Delivery Operators, the location of the Marijuana Warehouse shall be the Licensee's principle place of business within the Town. a Marijuana Retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a Marijuana Cultivator facility, Craft Marijuana Cultivator Cooperative facility, Marijuana Product Manufacturer facility, or Marijuana Microbusiness.

- k. Marijuana Establishment — a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Marijuana Independent Testing Laboratory, or any other type of Cannabis Control Commission-licensed Marijuana-related business or entity.
- l. Marijuana Establishment Agent — any owner, employee, executive, or volunteer of a Marijuana Establishment, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana. a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana
- m. Marijuana Establishment Branded Goods — a merchandise item offered for sale by a Marijuana Establishment, and identifiable as being of a particular Marijuana Establishment, distinct from those of other entities, by having the Marijuana Establishment's brand name. A Marijuana Establishment Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories. It may include apparel, water bottles or other similar non-edible merchandise.
- n. Marijuana Independent Testing Laboratory — an entity licensed or registered by the Massachusetts Cannabis Control Commission that is (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation Mutual Recognition Arrangement or that is otherwise approved by the Cannabis Control Commission; (ii) independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C,

~~§ 34. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments, qualified to test Marijuana and Marijuana Products in conformity with State law.~~

- m. Marijuana Products — Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been manufactured and contain cannabis, marijuana, or an extract from cannabis or marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edibles, beverages, topical products, ointments, oils and tinctures. Marijuana Products include Marijuana-infused Products (MIPs). ~~products that have been manufactured and contain Marijuana or an extract from Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.~~
- n. Marijuana Product Manufacturer — an entity licensed by the Massachusetts Cannabis Control Commission to obtain, manufacture, process and package Marijuana and Marijuana Products, ~~to deliver Marijuana and Marijuana Products to Marijuana Establishments~~ and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers.
- o. Marijuana Research Facility – an academic institution, nonprofit corporation or domestic corporation or entity licensed by the Massachusetts Cannabis Control Commission to conduct research.
- p. Marijuana Retailer — an entity licensed by the Massachusetts Cannabis Control Commission to purchase, and deliver Marijuana and Marijuana Products from Marijuana Establishments and to deliver, sell or otherwise transfer Marijuana and Marijuana Products to Marijuana Establishments and to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments, repackaging, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to transfer or otherwise transfer this product to Marijuana Establishments and to sell to Consumers.
- q. Marijuana Transporter – An entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the Massachusetts Cannabis Control Commission to possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or Medical Marijuana Treatment Centers, but not to consumers.



- r. **Marijuana Warehouse – Marijuana Warehouse means an indoor structure or a portion of the structure on the licensed Premises used by a Marijuana Establishment for the onsite storage of Marijuana and Marijuana Products in compliance with the regulatory requirements of 935 CMR 500.000 including the requirements for security, storage and disposal. For Marijuana Delivery Operators, the location of the Marijuana Warehouse shall be the Licensee’s principle place of business within the Town.**
- s. **Marijuana Warehousing – Marijuana Warehousing means the onsite storage of Marijuana and Marijuana Products that have been purchased at wholesale for eventual resale.**
- t. Medical Marijuana Treatment Center— an entity **licensed by the Massachusetts Cannabis Control Commission** that acquires, cultivates, possesses, processes (including development of related products such as edibles, Marijuana-infused products, tinctures, aerosols, oils, or ointments), **repackages, transfers,** transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use.
- u. Mixed Use Social Consumption Marijuana Retailer — a Marijuana Retailer that is in possession of a **Select Board Cannabis Control Commission** Mixed Use Social Consumption Marijuana Retailer license (~~as may be further provided by 935 CMR,~~ any commercial enterprise for which 50% or less of average monthly revenue shall be derived from the sale of marijuana products to be consumed on the premises).
- v. Primary Use Social Consumption Marijuana Retailer — a Marijuana Retailer that is in possession of a **Select Board Cannabis Control Commission** Primary Use Social Consumption Marijuana Retailer license (~~as may be further provided by 935 CMR,~~ any commercial enterprise for which 51% or more of average monthly revenue shall be derived from the sale of marijuana products to be consumed on the premises).
- w. Social Consumption Marijuana Retailer — a Marijuana Retailer licensed by the Cannabis Control Commission to ~~purchase Marijuana and Marijuana Products from Marijuana Establishments and to sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products~~ **and allow consumers to consumer Marijuana or Marijuana Products solely** on its premises ~~only~~.
- x. **Standards Laboratory – a laboratory meeting the requirements of the Independent Testing laboratory that is licensed by the Massachusetts Cannabis Control Commission as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories.**

- y. Storefront Marijuana Retailer — a Marijuana Retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Massachusetts Medical Use of Marijuana Program.
- z. White Labeling – White Labeling means to affix a product label that includes the branding, including the name and logo, of a specific Marijuana Establishment Licensee to a Finished Marijuana Product that was previously produced and packaged by a licensed Product Manufacturer, Cultivator, Microbusiness or Craft Marijuana Cooperative for sale to Consumers.

~~Section 8.37.3~~ — ~~MEDICAL MARIJUANA TREATMENT CENTERS~~

~~Medical Marijuana Treatment Centers licensed prior to July 1, 2017 may be licensed pursuant to Section 8.37. 6 below or under Article 8.34 of the General By-Laws, as the Select Board may determine in conformity with applicable State and local laws.~~

Section 8.37.34 CAPS ON THE NUMBER OF SELECT BOARD LICENSES FOR MARIJUANA RETAILERS

The Select Board shall not issue more Marijuana Establishment licenses in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 15, as rounded up to the nearest whole number in the event the number is a fraction: a) Storefront Marijuana Retailers, b) Marijuana Delivery Operators~~Delivery-Only Marijuana Retailers~~; and c) Social Consumption Marijuana Retailers, and d) Marijuana Couriers.

Section 8.37.45 GENERAL REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS

Marijuana Establishments shall comply with the following requirements:

A. General

1. Marijuana Establishments shall comply with applicable State and local laws, regulations, by-laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500, the Town of Brookline's General By-Laws, the Town of Brookline's Zoning By-Laws, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Zoning Board of Appeals special permit).

## 10.A.

2. Marijuana Establishments shall execute and maintain a Host Community Agreement with the Town which shall include the conditions for having the Marijuana Establishment within the Town in conformity with applicable law.
3. Marijuana Establishments shall maintain all permits and licenses required by State and local laws, including, but not limited to, a valid, current license in good standing from the Cannabis Control Commission. Any voiding of the Cannabis Control Commission's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Cannabis Control Commission approval), and any revocation or suspension of the Marijuana Establishment's Cannabis Control Commission license, shall result in an automatic suspension of the Select Board license pending hearing or the opportunity therefore afforded to the Marijuana Establishment.
4. All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.
5. Any Marijuana Establishment licensee wishing to close a place of business or cease operations, whether on a temporary or permanent basis, may do so only if permitted by State law and must submit to the Select Board a written request for the Select Board's permission to do so, stating the reason for and length of such closing or inactivity. Failure to provide such notice and to obtain such permission may, after hearing or reasonable opportunity therefor, result in cancelation of the license.

### B. Operational Requirements

1. All Marijuana Establishments' licensed operations shall be conducted within a building or fixed structure.
2. No Marijuana Establishment shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft or other optical aids.
3. Marijuana Establishments may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Establishment to access the area.
4. No Marijuana Establishment shall allow any person under 21 years of age to volunteer or work for the Marijuana Establishment.

## 10.A.

5. The hours of operation of Marijuana Establishments shall be set by the Select Board. The licensee shall not change its hours of operation without Board approval.
6. Marijuana Establishments shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.
7. Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
8. Marijuana Establishment operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Establishment, or in use of Marijuana in any manner that violates State or local law.
9. Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, electrical lighting, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Department Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.
10. Marijuana Establishments shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the facility or at any adjoining use or property.
11. A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:
  - a) prior to surrendering its State-issued license; or
  - b) within six (6) months of ceasing operations.
12. Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.

13. Marijuana Retailers **and Marijuana Delivery Operators** are required to engage in patron age verification using legally-acceptable proof of age as may be further specified by the Select Board license.
14. Marijuana Retailers **and Marijuana Delivery Operators** shall not sell or offer for sale Marijuana or Marijuana Products in a quantity that exceeds the limits established by 935 CMR 500.
15. Marijuana Establishments shall not supply Marijuana or Marijuana Products free of charge or in connection with a commercial or promotional endeavor within the Town of Brookline. Such endeavors include, but are not limited to, product “giveaways”, or distribution of Marijuana or Marijuana Products as an incentive, prize or bonus in a game, contest or tournament involving skill or chance.
16. Marijuana Retailers are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.
17. Consumption of Marijuana in the interior or exterior of the premises is not permitted except as follows. Duly-licensed Social Consumption Marijuana Retailers may permit on-premises consumption of Marijuana and Marijuana Products which they are licensed to sell to customers purchasing their products who are aged 21 years and older in the event that on-premises consumption is approved by the Town pursuant to and in the manner provided by M.G.L. c. 94G, § 3(b). In the event that on-premises consumption is approved by the Town in such manner, Social Consumption Marijuana Retailers must abide by all State and local requirements for Marijuana Establishments. Social Consumption Marijuana Retailers shall comply with all legal requirements pertaining to verification that a patron is at least 21 years of age utilizing acceptable forms of proof of age, including any proof-of-age verification requirements established by the Select Board in connection with the local licensing of Marijuana Establishments. In no event shall Social Consumption Marijuana Retailers permit the smoking of Marijuana or Marijuana Products on the premises. Smoking is defined to mean the lighting of, or having in one’s possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.

C. **Security-Specific Requirements**

1. Marijuana Establishments shall maintain compliance with any Town Police Department-approved security and public safety plan as the Police Department may require, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of

video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment (related or unrelated to the business or the establishments), providing access to and transfer of video footage from the establishment's video surveillance system to the Police Department when the Police Department so requests (which request may be made when the Police Department has a reason to believe that such footage may be of assistance in an ongoing investigation related or non-related to the business of the establishment), a requirement to connect an alarm system to a third party monitoring system and to notify the Town's Chief of Police about said third party monitoring system, and any other notifications and security-related measures as may be required by the Police Department and the Select Board.

2. Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing Marijuana is restricted to employees and others permitted by the Marijuana Establishment to access the area and to agents of the Cannabis Control Commission or state and local law enforcement officers and emergency personnel.
3. Marijuana Establishments shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana Accessories.
4. Marijuana Establishments shall file an emergency response plan with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.

D. Access to Premises and Information/Reporting/Record-Keeping

1. Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its premises by the Select Board and agents of the Select Board from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sergeant or higher) on week-days during normal business hours to determine the Marijuana Establishment's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Establishment. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.

2. Marijuana Establishments shall cooperate and comply with requests for information made by the Select Board and its agents from the Planning, Building, Health, Police, Fire and Public Works Departments.
3. Within twenty-four (24) hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Administrator, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health (DPH)) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the DPH Certificate of Registration.

## Section 8.37.56

MARIJUANA ESTABLISHMENT SELECT BOARD  
LICENSE

- a. No person shall operate a Marijuana Establishment or sell Marijuana within the Town unless licensed to do so by the Select Board. Unless the Select Board license states a different duration, a Marijuana Establishment license shall be valid for a term of one year from the first day of January. Each day of operation without a Select Board license shall constitute a separate violation.
- b. A Select Board license shall be subject to the Marijuana Establishment's compliance with this Article 8.37 and with any conditions placed on the Marijuana Establishment's license. An applicant's or licensee's violation of this Article 8.37 and applicable State and local law shall be good cause for and may result in the Select Board's denial of an application or sanction of a license to the extent permitted by law, including, but not limited to, the imposition of additional conditions on a license, a reduction or modification of the licensee's approved hours of operations, or a suspension, non-renewal, revocation, forfeiture, or cancellation of a license. No sanction shall be made except after notice and opportunity for hearing.
- c. The Select Board may issue regulations for the implementation of this By-Law.
- d. The Select Board shall specify the process and forms to be used by applicants for new and renewed licenses.
- e. All license applications must contain complete and truthful information. Submission of an application containing material false information may be cause

for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Select Board until it is fully complete. Annual license fees shall be payable immediately upon approval of the license by the Select Board. License fees shall not be prorated and are not refundable. Application and license fees shall be in an amount established by the Select Board pursuant to M.G.L. c. 40, § 22F.

- f. No Select Board licensee may transfer a license to another person or entity, or transfer the license or operations to another location, without Select Board approval. A Select Board licensee must obtain Select Board approval for a change to or addition of Board Member, Executive, Director and/or Managers, as may be determined by the Select Board. Any transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Board.
- g. A Select Board licensee must apply for and obtain the approval of the Select Board or its designee prior to making any structural change to the premises.
- h. The Select Board licensee shall display its license on the premises in a conspicuous place where it can be easily read.
- i. The Select Board or its designee may inspect a Marijuana Establishment and affiliated vehicles prior to the issuance of a Marijuana Establishment license or renewal of a license.
- j. All areas of a Marijuana Establishment may be subject to inspection consistent with applicable law.
- k. The Select Board may, to the extent permitted under applicable law, consider whether an applicant for a license is a suitable and responsible license candidate and other aspects of the application as may be necessary to implement the purposes of this By-Law. An applicant's non-compliance with applicable Massachusetts laws and regulations (including 935 CMR 500), Town by-laws (including this Article and applicable sections of the Town's Zoning By-Law), Town regulations and codes, and any conditions on a license may be cause for denial of an application for a new or renewed Marijuana Establishment license.

#### Section 8.37.68

#### FINES

Any person violating this By-Law shall be fined in the amount of \$100 for each violation. Each day of a continuing violation shall count as a separate violation.

#### Section 8.37.78

#### IMPLEMENTATION

This By-Law shall not be implemented in a manner that conflicts or interferes with the Massachusetts General Laws Chapter 94G or Chapter 94I, or with the regulations promulgated thereunder, including 935 CMR 500.



or act on anything relative thereto.

#### Explanation

The May 2018 Town Meeting approved Article 8.37 of the Town's General By-Laws. Article 8.37 established a local regulatory scheme for recreational ("Adult Use") marijuana retailers and other forms of marijuana establishments established by State statute and State regulations promulgated by the Massachusetts Cannabis Control Commission ("CCC").

In December 2020, the CCC amended its regulations to create two new State license types: (1) the "Marijuana Delivery Operator" (a marijuana establishment with no storefront presence that sells and delivers marijuana and marijuana products directly to consumers utilizing an on-line platform), and (2) the "Marijuana Courier" (which do not sell directly to consumers but partner with marijuana establishments that do so, to effectuate their deliveries to consumers; functionally, the Marijuana Courier is what the CCC regulations formerly termed "Delivery Only" Marijuana Retailers).

The new CCC regulations reserve these two license types to "Economic Empowerment" applicants and "Social Equity Program Participants" at least during the three (3) year period from when the State's first Marijuana Delivery Operator may commence operations.

The new CCC regulations make other changes of lesser significance from a local regulation perspective, including terminology differences in some previously defined terms.

Town staff have developed the foregoing warrant article and an accompanying warrant article proposing Zoning Bylaw changes in order to provide for siting, Select Board licensing, and local regulation of Marijuana Delivery Operators and Marijuana Couriers. The foregoing warrant article proposes caps on the two new license categories that are the same as the cap for the formerly denominated "Delivery Only" Marijuana Retailer (now termed the "Marijuana Courier") and other Marijuana Retailers (since the "Delivery Operator" will, in fact, sell marijuana and marijuana products to consumers). The Town has no experience with either use and, therefore, it seems prudent to establish caps at the outset of permitting/licensing these uses while any community impacts are assessed. As with any Marijuana Establishment applicant for a special permit and Select Board license, these two new types of marijuana businesses will undergo site plan review through the Planning Department, Planning Board and Zoning Board of Appeals processes, as well as cross-departmental review in connection with determining Select Board license conditions and eligibility for a license.

The foregoing warrant article also proposes to delete a provision for licensing of Medical Marijuana Treatment Centers under an older bylaw (Article 8.34 of the General

Bylaws), since NETA was the only entity licensed under it and NETA is now fully licensed pursuant to the existing Article 8.37 instead of under Article 8.34.

Both the proposed General Bylaw and Zoning Bylaw amendments propose to amend some definitions in the existing bylaws in order to bring them into greater uniformity with the new CCC terminology.

The foregoing warrant article references licensing of “primary use” versus “mixed use” Social Consumption Marijuana Retailers, now pursuant to a Select Board and not a CCC licensing scheme. The new CCC regulations eliminate the distinction (and instead reference a generic “Social Consumption” license for any establishment selling marijuana for on-premises consumption); therefore, if there is to be a distinction between “primary use” and “mixed use” Social Consumption Marijuana Retailers, it must be maintained locally pursuant to a Select Board licensing scheme, if at all. Currently, the Town does not permit Social Consumption Marijuana Retailers, as the vehicle for permitting them, pursuant to State law, is a Town-wide vote that has not occurred. The foregoing proposes the language change referencing Select Board “primary use” versus “mixed use” Social Consumption Marijuana Retailer licenses solely for purposes of bringing the language into conformity with the current CCC regulations. In the event that efforts begin to legalize Social Consumption Marijuana Retailers within the Town through the legally-required Town-wide vote, this language and the distinction it makes should be revisited. Likewise, the proposed Zoning Bylaw amendments retain the “primary use” and “mixed use” distinction for now, in light of the above.

ARTICLE

Submitted by: Department of Planning and Community Development

To see if the Town will amend the Brookline Zoning By-law as follows:

By amending §2.13, "M" Definitions, as follows (additions are denoted in ***bold, italicized*** text, deletions are denoted in ~~stricken~~ text):

1. MARIJUANA — As defined or amended by State regulations, all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that "Marijuana" shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.
  - a. Marijuana, Hemp — As defined or amended by State regulations, the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.
2. ***MARIJUANA ACCESSORIES – As defined or amended by State regulations, equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing Marijuana into the human body.***
3. MARIJUANA ESTABLISHMENT – As defined or amended by State regulations, a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Independent Testing Laboratory, or any other type of Marijuana-related business that has been duly licensed by the Massachusetts Cannabis Control Commission or relevant State agency.
  - a. ***Marijuana Establishment, Marijuana-Courier – As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to deliver Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers from a***

*Marijuana Retailer, or directly to registered qualifying patients or caregivers from an Medical Marijuana Treatment Center, but is not authorized to sell Marijuana or Marijuana Products directly to consumers, registered qualifying patients or caregivers and is not authorized to wholesale, Warehouse, process, repackaging, or White Label. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*

- b. Marijuana Establishment, Craft Marijuana Cultivator-Cooperative — As defined or amended by State regulations, a Marijuana Cultivator comprised of residents of Massachusetts organized as a limited liability company or limited liability partnership under Massachusetts law, or an appropriate business structure as determined by the Massachusetts Cannabis Control Commission, and that is licensed by the *Massachusetts* Cannabis Control Commission to cultivate, obtain, manufacture, process, package, and brand *and transfer* Marijuana *and* Marijuana Products to deliver Marijuana to Marijuana Establishments but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.
- c. Marijuana Establishment, Marijuana Cultivator — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transfer Marijuana to other Marijuana Establishments, but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.
- d. Marijuana Establishment, *Marijuana Delivery Operator* ~~Only Marijuana Retailer~~ — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission *to purchase at wholesale and Warehouse Finished Marijuana Products and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers, but is not authorized to repackaging Marijuana or Marijuana Products or operate a storefront under this license. For Delivery Operators, the location of the Warehouse shall be the Licensee's principle place of business within the Town.* ~~as a Marijuana Retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a Marijuana Cultivator facility, Craft Marijuana Cultivator Cooperative facility, Marijuana Product Manufacturer facility, or Micro-Business.~~ *This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- e. Marijuana Establishment, Marijuana Independent Testing Laboratory — As defined or amended by State regulations, an entity licensed *or registered* by the Massachusetts Cannabis Control Commission that is (i) ~~accredited to the most current International Organization for Standardization 17025 by a third party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation Mutual Recognition Arrangement or that is otherwise~~

approved by the Cannabis Control Commission; (ii) independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments. ***qualified to test Marijuana and Marijuana Products in conformity with State law. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.***

- f. Marijuana Establishment, Marijuana Micro-Business — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to ***operate as a*** ~~act as a co-located licensed Marijuana Cultivator in an area less than 5,000 square feet, a licensed Marijuana Product Manufacturer, and a licensed Marijuana Delivery Service, in compliance with operating procedures for each such license and siting requirements for each type of licensee. — Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, and, if in receipt of a Delivery Endorsement issued by the Massachusetts Cannabis Control Commission, to deliver Marijuana or Marijuana Products produced at the licensed location directly to consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~
- g. Marijuana Establishment, Marijuana Product Manufacturer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to ~~obtain, manufacture, process and package Marijuana and Marijuana Products, to deliver Marijuana and Marijuana Products to Marijuana Establishments and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers~~ ***obtain, manufacture, process and package Marijuana or Marijuana Products and to transfer these products to other Marijuana Establishments, but not to Consumers.*** This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.
- h. Marijuana Establishment, Marijuana Research Facility — As defined or amended by State regulations, an ***academic institution, nonprofit corporation or domestic corporation or entity licensed by the Massachusetts Cannabis Control Commission to conduct research*** ~~entity licensed by the Massachusetts Cannabis Control Commission to engage in research projects, including cultivation, purchase or acquisition otherwise of Marijuana for the purpose of conducting research regarding Marijuana and Marijuana Products or any analogous uses. A Marijuana Research Facility may be academic institutions, non-profit corporations and domestic corporations or entities authorized to do business in Massachusetts. A Marijuana Research Facility may hold a Cannabis Control~~

~~Commission Marijuana Retailer License to sell Marijuana and Marijuana Products other than Marijuana cultivated under its research license.~~ This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

- i. Marijuana Establishment, Marijuana Retailer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to purchase, ~~and deliver Marijuana and Marijuana Products from Marijuana Establishments and to deliver, sell or otherwise transfer Marijuana and Marijuana Products to Marijuana Establishments and to consumers.~~ This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments. *repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to transfer or otherwise transfer this product to Marijuana Establishments and to sell to Consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- j. Marijuana Establishment, Social Consumption Marijuana Retailer — As defined or amended by State regulations *and the Town's General Bylaws*, a Marijuana Retailer licensed by the Massachusetts Cannabis Control Commission *to sell Marijuana or Marijuana Products and allow consumers to consume Marijuana or Marijuana Products solely on its premises. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.* ~~to purchase Marijuana and Marijuana Products from Marijuana Establishments and to sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products on its premises only.~~
- k. Marijuana Establishment, Marijuana Transporter — As defined or amended by State regulations, an entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the *Massachusetts Cannabis Control Commission* to purchase, obtain and possess Marijuana and Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, not for sale to consumers. This definition includes the foregoing uses described in this definition when conducted by Marijuana Establishments *possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or Medical Marijuana Treatment Centers, but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- l. Marijuana Establishment, Medical Marijuana Treatment Center — As defined or amended by State regulations, an entity *licensed by the Massachusetts Cannabis Control Commission* that acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes,

~~dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use, as otherwise defined by State law. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~ ***acquires, cultivates, possesses, processes (including development of related products such as edibles, MIPs, tinctures, aerosols, oils, or ointments), repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.***

***m. Marijuana Establishment, Standards Laboratory — As defined or amended by State regulations, a laboratory meeting the requirements of the Independent Testing laboratory that is licensed by the Massachusetts Cannabis Control Commission as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.***

***n. Marijuana Establishment, Storefront Marijuana Retailer — As defined or amended by State regulations, a Marijuana Retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.***

***4. MARIJUANA ESTABLISHMENT AGENT — As defined or amended by State regulations, a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, dispensing, or any other analogous uses of Marijuana.*** ***any owner, employee, executive, or volunteer of a Marijuana Establishment, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana.***

***5. MARIJUANA ESTABLISHMENT BRANDED GOODS — a merchandise item offered for sale by a Marijuana Establishment, and identifiable as being of a particular Marijuana Establishment, distinct from those of other entities, by having the Marijuana Establishment's brand name. A Marijuana Establishment Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories. It may include apparel, water bottles or other similar non-edible merchandise.***

6. **MARIJUANA PRODUCTS** — As defined or amended by State regulations, ~~products that have been manufactured and contain Marijuana or an extract from Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.~~ *Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been manufactured and contain cannabis, marijuana, or an extract from cannabis or marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edibles, beverages, topical products, ointments, oils and tinctures. Marijuana Products include Marijuana-infused Products (MIPs).*

*a. Marijuana Products, Finished – As defined or amended by State regulations, usable Marijuana, Cannabis resin or Cannabis concentrate that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.*

6.7. **MARIJUANA, MANUFACTURE** — As defined or amended by State regulations, to compound, blend, extract, infuse or otherwise make or prepare a Marijuana product.

8. **MARIJUANA, MARIJUANA MANUFACTURER RESIDENTIAL USE:** Residential Marijuana ~~e~~Extraction by ~~n~~Non-licensed ~~e~~Establishments or ~~i~~Individuals utilizing extraction processes that pose an explosive or flammable danger, including solvent-based extraction and any method utilizing liquefied petroleum gas (“LPG”, as may be defined by NFPA1, including propylene, propane, butane, butylenes, and mixtures thereof).’

7.9. **MARIJUANA, WAREHOUSE** – *Marijuana Warehouse means an indoor structure or a portion of the structure on the licensed Premises used by a Marijuana Establishment for the onsite storage of Marijuana and Marijuana Products in compliance with the regulatory requirements of 935 CMR 500.000 including the requirements for security, storage and disposal. For Delivery Operators, the location of the Warehouse shall be the Licensee’s principle place of business within the Town.*

8.10. **MARIJUANA, WAREHOUSING** – *Marijuana Warehousing means the onsite storage of Marijuana and Marijuana Products that have been purchased at wholesale for eventual resale.*

9.11. **MARIAJUANA, WHITE LABELING** – *Marijuana White Labeling means to affix a product label that includes the branding, including the name and logo, of a specific Marijuana Establishment Licensee to a Finished Marijuana Product that was previously produced and packaged by a licensed Product Manufacturer, Cultivator, Microbusiness or Craft Marijuana Cooperative for sale to Consumers.*

And further, by amending §4.07, Table of Use Regulations, as follows (all uses are new):



Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
20B. Medical Marijuana Treatment Centers (see Section 4.13 for applicable definition), and uses analogous to Marijuana Retailer Uses Only <del>Registered Marijuana Dispensary (RMD)*</del> * To be eligible for a special permit under Use 20B, the requirements under Sec. 4.12, Registered Marijuana Dispensary, and Sec. 4.13, Marijuana Establishments, shall be met, as each may be applicable.	No	No	No	No	No	No	SP*2	SP*2	SP*
20C. <del>Delivery Only Marijuana Retailers</del> <b>Marijuana Couriers</b> and Marijuana Transporters *To be eligible for a special permit under Use 20C, the requirements under Sec. 4.13, Marijuana Establishments, shall be met.	No	No	No	No	No	SP*1	SP*1	SP*1	SP*1
<b>20D. Marijuana Delivery Operators</b> <i>*To be eligible for a special permit under Use 20D, the requirements under Sec. 4.13, Marijuana Establishments, shall be met.</i>	No	No	No	No	No	No	No	SP*1	SP*1

<i>*For Use 20D, all storage of materials and equipment and all business operations, such as loading, parking, and storage of commercial vehicles, shall be within an enclosed building.</i>									
29A. Storefront Marijuana Retailers, stores of less than 5,000 square feet of gross floor area per establishment * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	SP*1, 2	SP*1, 2	No	SP*1
29B. Social Consumption Marijuana Retailers * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments, only in the event of a Town-wide vote approving on-site consumption pursuant to M.G.L c.94G, § 3(b).	No	No	No	No	No	SP*1, 2	SP*1, 2	No	SP*1
36C. Marijuana Independent Testing Laboratories, Marijuana Standards Laboratories, and Marijuana Research Facilities * To be eligible for a special permit under Use 36C, the requirements under Sec. 4.13, Marijuana Establishments, and Use 36A. and 36B., restrictions on Marijuana Research Laboratories, shall be met.	No	No	No	No	No	No	SP*1, 2	SP*1, 2	SP*1
38D. Marijuana Cultivators * Permitted by special permit pursuant to Section	No	No	No	No	No	SP*1, 2	SP*1, 2	SP*1, 2	SP*1

4.13, Marijuana Establishments									
46B. Marijuana Product Manufacturers * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	No	No	No	SP* <sup>1</sup>
Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
65A. Marijuana Manufacturer Residential Uses	No	No	No	No	No	No	No	No	No

## FOOTNOTES:

1. Allowed use by Special Permit unless a Town-wide vote bans this use.
2. No manufacturing of Marijuana is permitted in these districts.

And further, by creating a new §4.13, Marijuana Establishments with the following requirements:

§4.13 -Marijuana Establishments

1. Purpose

The intent of this section is to permit Marijuana Establishments to operate in locations and pursuant to local requirements that ensure safe and appropriate implementation of Chapter 334 of the Acts of 2016 (Question #4 on the November 8, 2016 ballot), legalizing recreational Marijuana, within the community.

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

2. Definitions

See Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the regulations promulgated thereunder, as they may be amended, as well as Section 2, Definitions, of the Zoning By-Law for further definitions of applicable terms.

3. ~~Medical Marijuana Treatment Centers~~

~~Medical Marijuana Treatment Centers licensed prior to July 1, 2017 shall be subject to §2.13(1) ("Medical Marijuana Treatment Center"), §4.07, Use 20B, and §4.12 ("Registered Marijuana Dispensary (RMD)") of the Zoning By-Laws and not this section, subject to the following: In the event that the medical Marijuana licensing process by the Select Board pursuant to Article~~

~~8.34 of the General By-Laws is discontinued in whole or in part, a medical Marijuana treatment center not subject to Select Board licensing pursuant to Article 8.34 shall then be subject to the requirements established for Storefront Marijuana Retailers.~~

3. Cap on the Number of Special Permits for Marijuana Retailers, *Marijuana Couriers, and Marijuana Delivery Operators*

The Zoning Board of Appeals shall not grant a special permit if doing so would result in a total number of outstanding special permits granted to Marijuana Retailers that exceeds any cap set by a General By-Law on the number of Select Board Marijuana Establishment licenses that can be issued to Marijuana Retailers.

If no such General By-Law is in effect at the time of a vote by the Zoning Board of Appeals on a special permit application, the Zoning Board of Appeals shall not issue a special permit if doing so would result in a total number of outstanding special permits that exceeds the following limitations: The Zoning Board of Appeals shall not issue more special permits in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 15, as rounded up to the nearest whole number in the event the number is a fraction: a) Storefront Marijuana Retailers; b) ~~Delivery-Only Marijuana Retailers~~ *Marijuana Couriers*; c) *Marijuana Delivery Operators*; and d) Social Consumption Marijuana Retailers.

~~4. General Requirements for Marijuana Establishments~~

~~Marijuana Establishments shall comply with the following requirements:~~

A. General

- ~~1. Marijuana Establishments shall comply with applicable State and local laws, regulations, by laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500, the Town of Brookline's General By-Laws, the Town of Brookline's Zoning By-Laws, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Zoning Board of Appeals special permit), and agreements between the Marijuana Establishment and the Town, including host community agreements.~~
- ~~2. Marijuana Establishments shall maintain all permits and licenses required by State and local laws. Any laws voiding of the Cannabis Control Commission's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Cannabis Control Commission approval), and any revocation or suspension of the Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded~~

to the Marijuana Establishment and pending further determination by the Zoning Board of Appeals.

3. ~~All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.~~

B. Operational Requirements

1. ~~All Marijuana Establishments' licensed operations shall be conducted within a building at a fixed location.~~
2. ~~No Marijuana Establishment shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft, or other optical aids.~~
3. ~~Marijuana Establishments may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Establishment to access the area.~~
4. ~~The hours of operation of Marijuana Establishments shall be those that are set by the Marijuana Establishment's host community agreement with the Town or a Select Board-issued license.~~
5. ~~Marijuana Establishments shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.~~
6. ~~Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.~~
7. ~~Marijuana Establishment operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Establishment, or in use of Marijuana in any manner that violates State or local law.~~
8. ~~Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, electrical lighting, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Division Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.~~

9. ~~Marijuana Establishments shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the facility or at any adjoining use or property.~~
10. ~~A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:~~
  - a) ~~prior to surrendering its State-issued license; or~~
  - b) ~~within six (6) months of ceasing operations.~~
11. ~~Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA-1 (2018), as they may be amended, and as applicable.~~
12. ~~Marijuana Establishments are prohibited from use of on-site self service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.~~
13. ~~Consumption of Marijuana in the interior or exterior of the premises is not permitted except as follows. Duly-licensed Social Consumption Marijuana Retailers may permit on-premises consumption of Marijuana and Marijuana Products which they are licensed to sell to customers purchasing their products who are aged 21 years and older in the event that on-premises consumption is approved by the Town pursuant to and in the manner provided by M.G.L. c. 94G, § 3(b). In the event that on-premises consumption is approved by the Town in such manner, Social Consumption Marijuana Retailers must abide by all State and local requirements for Marijuana Establishments. Social Consumption Marijuana Retailers shall comply with all legal requirements pertaining to verification that a patron is at least 21 years of age utilizing acceptable forms of proof of age, including any proof of age verification requirements established by the Select Board in connection with the local licensing of Marijuana Establishments. In no event shall Social Consumption Marijuana Retailers permit the smoking of Marijuana or Marijuana Products on the premises. Smoking is defined to mean the lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.~~

#### C. Security-Specific Requirements

1. ~~Marijuana Establishments shall maintain compliance with any Town Police Department approved security and public safety plans as the Police Department may require, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected~~

~~violation of criminal law that has taken place on or near the location of the establishment.~~

- ~~2. Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the Marijuana Establishment to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.~~
- ~~3. Marijuana Establishments shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.~~
- ~~4. Marijuana Establishments shall file an emergency response plan with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.~~

D. Access to Premises and Information/Reporting/Record Keeping

- ~~1. Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sergeant or higher) on week days during normal business hours to determine the Marijuana Establishment's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Establishment. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.~~
- ~~2. Marijuana Establishments shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning, Building, Health, Police, Fire and Public Works Departments.~~
- ~~3. Within twenty four (24) hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Administrator, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control~~

~~Commission and Massachusetts Department of Public Health) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.~~

E. 4. Additional Location Requirements for Marijuana Establishments

1. Marijuana Establishments shall not be located in a building that contains a pre-existing daycare center.
2. Marijuana manufacturing or extraction shall not be done in any building containing assembly, educational, health care, ambulatory health care, residential board and care, residential, or detention and correctional facilities.
3. ~~Delivery Only Marijuana Retailers~~ **Marijuana Couriers** and Marijuana Transporters shall not occupy street-level space in Local or General Business districts.
4. The required distance from schools that serve Kindergarten through 12<sup>th</sup> grade, public or private, shall be:
  - a. 500 feet for i) Social Consumption Marijuana Retailers issued a primary use license; and ii) Storefront Marijuana Retailers with the following provisions:
    1. Where the 500-foot buffer intersects a major corridor (as defined in subsection 2 immediately below), the buffer zone shall not include land on the opposite side of the major corridor from where the school is located.
    2. For purposes of this section, "major corridors" are defined as Beacon Street, Commonwealth Avenue, and/or Route 9 (otherwise known as Boylston Street, including a portion of Route 9 that converts to Washington Street).
  - b. No distance requirement applicable to i) Marijuana Research Facilities that do not hold a Marijuana Retailer license; ii) Marijuana Independent Testing Laboratories; and iii) Marijuana Standards Laboratories.
  - c. 200 feet for all other Marijuana Establishments.
  - d. Measured from lot boundary to lot boundary.
5. Density requirements for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers shall be:
  - a. A minimum of 200 feet from another Social Consumption Marijuana Retailer issued a **Select Board** primary use license **pursuant to Article 8.37 of the Town's General Bylaws** or a Storefront Marijuana Retailer, if any portion of the establishment is located at street-level.



- b. Allowed within 200 feet from another Social Consumption Marijuana Retailer issued a *Select Board* primary use license *pursuant to Article 8.37 of the Town's General Bylaws* or a Storefront Marijuana Retailer above or below street-level as long as the Zoning Board of Appeals determines that doing so will not have a detrimental impact on the vibrancy of the streetscape and all other applicable requirements are satisfied (applicable to uses 29A and 29B).
  - c. Measured from lot boundary to lot boundary.
- 6. Store Size Limitations for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers, *Marijuana Couriers, and Marijuana Delivery Operators* shall:
  - a. Not exceed a total gross floor area of 5,000 square feet per establishment.
  - b. Not exceed a gross floor area of 3,500 square feet and no more than 5,000 square feet total gross floor area per establishment if any portion of the establishment is located at street-level. *Not applicable to Marijuana Couriers and Marijuana Delivery Operators.*
  - c. Not apply to Medical Marijuana Treatment Centers licensed to operate prior to July 1, 2017, who receive a State Storefront Marijuana Retailer license or Delivery-Only Marijuana Retailer license pursuant to M.G.L. c. 94G and the regulations promulgated thereunder, unless a licensed Medical Marijuana Treatment Center expands the licensed premises or building.
- 7. *The Parking and Loading Requirements for Marijuana Delivery Operators shall be as follows:*
  - a. *All loading, parking, and storage of commercial vehicles shall be within an enclosed building.*
  - b. *Delivery and loading of Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods shall occur with an enclosed building.*
  - c. *The maximum parking limit shall be 1.5 spaces per 1000 square feet.*

##### 5. 7 Site Plan Review for Marijuana Establishments

The following describes requirements for a Marijuana Establishment site plan review process to precede the Marijuana Establishment's application for a building permit and a special permit:

- A. Prior to applying for a building permit, the Marijuana Establishment shall have an initial informal meeting with the Planning Director and the Building Commissioner or designees to discuss development plans and relevant Zoning By-Law requirements.

- B. The appropriate site plan review process shall be determined at the initial meeting consistent with the Zoning By-Laws, which may include, but is not limited to, the process for Major Impact Projects and Design Advisory Teams.
- C. In addition, at the discretion of the Planning Director or designee, the Marijuana Establishment Site Plan Review process may entail submission of reports from all relevant departments and divisions, which may include the Health Department, the Police Departments, the Fire Department, the Building Department, the Department of Public Works (e.g., the Transportation Division in the event that a Transportation Demand Management Plan may be contemplated, the Water Division, the Highway and Sanitation Division, as applicable), and/or any other Department that the Planning Director or designee determines to be appropriate to the project.
- D. The applicant is responsible for obtaining any Department report deemed necessary by the Planning Director or designee in connection with Marijuana Establishment Site Plan Review process and submitting the report to the Planning Department. The Planning Department will assist with identifying to the applicant information and documents that Departments may require in connection with issuing their reports. Departments responsible for reports may identify other needed information and documents needed from the applicant.
- E. Each Department designated by the Planning Department to issue a report will make its report available to the applicant no later than forty-five (45) calendar days from the date the applicant has completed submission to the Department of all requested information and documents.
- F. In the event a Department designated by the Planning Department to issue a report does not do so within 45 days of when the applicant submitted all requested information and documents to the Department, the applicant may submit to the Planning Department, in lieu of the report, a letter showing evidence of the applicant's submission of requested information and documents to the Department or stating that no documents or information was requested, as the case may be.
- G. The Marijuana Establishment shall cooperate with requests for information or meetings by the Planning Director and/or by any of the Departments designated by the Planning Director to issue reports as part of the Marijuana Establishment Site Plan Review process, which information may include the Marijuana Establishment's application for a license from the Cannabis Control Commission or relevant State agency.
- H. Marijuana Establishments may not apply for a building permit until the Planning Director and Building Commissioner have issued a written Notice of Completion of Marijuana Establishment Site Plan Review.

#### 6. Special Permits

The following apply to special permits to operate a Marijuana Establishment, in addition to the requirements set forth in §9 of the Zoning By-Laws.

A. Application requirements: Marijuana Establishments shall include with their special permit application:

1. Copies of any required licenses and permits relating to the operation of the Marijuana Establishment, or, if an application for a required license or permit is pending, a copy of the application.
2. Evidence of the Marijuana Establishment's right to use the proposed site as a Marijuana Establishment, such as a deed or lease.
3. A copy of the Notice of Completion of Marijuana Establishment Site Plan Review Process for Marijuana Establishments.
4. Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning Department determines is necessary for review, such as Department reports or transportation studies or a license application.

B. Special permit criteria: The Board of Appeals shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:

1. Issuance of the special permit would not contravene the cap on the number of special permits that may be granted (see subsection 4-3, Cap on the Number of Special Permits for Storefront Marijuana Retailers, *Marijuana Couriers, Marijuana Delivery Operators* of this section) and any applicable density restrictions (see subsection 4-5, *Additional Location Requirements for Marijuana Establishments, General Requirements for Marijuana Establishments*, of this section). Issuance of a special permit must also comply with applicable State and local laws.
2. The location is compliant with Section 4.13 in its entirety.
3. The Board of Appeals is otherwise satisfied that the Marijuana Establishment has the ability to comply with the General Requirements for Marijuana Establishments set forth in Section 4.13, and 4.12 if applicable.

7. Submittal Requirements prior to issuance of a Certificate of Occupancy

The following information shall be provided to the Building Department:

- A. Proof that the Brookline Police Department has been provided with the name, phone numbers and email addresses of all management staff, and with access to the facility when it is closed, to enable contact if operating problems should arise.

- B. Proof that all security measures required by the special permit have been installed or implemented.
- C. Proof that the applicant is compliant with implementing any required transportation mitigation measures.

#### 8. Enforcement

This section of the Zoning By-Law shall be enforced by the Building Commissioner or the Building Commissioner's designee, as may be consistent with law. This Section, 9. Enforcement, shall supersede any conflicting provision of the Zoning By-Laws that would otherwise be applicable to the enforcement of this section.

#### 9. Implementation

This section shall not be implemented in a manner that conflicts or interferes with the operation of M.G.L. c. 94G, 94I or the regulations promulgated thereunder, including 935 CMR 500 or act on anything relative thereto.

#### Explanation

In December 2020, the CCC amended its regulations to create two new State license types: **(1)** the "Marijuana Delivery Operator" (a marijuana establishment with no storefront presence that sells and delivers marijuana and marijuana products directly to consumers utilizing an on-line platform), and **(2)** the "Marijuana Courier" (which do not sell directly to consumers but partner with marijuana establishments that do so, to effectuate their deliveries to consumers; functionally, the Marijuana Courier is what the CCC regulations formerly termed "Delivery Only" Marijuana Retailers).

The new CCC regulations reserve these two license types to "Economic Empowerment" applicants and "Social Equity Program Participants" at least during the three (3) year period from when the State's first Marijuana Delivery Operator may commence operations.

The new CCC regulations make other changes of lesser significance from a local regulation perspective, including terminology differences in some previously defined terms.

Town staff have developed the foregoing warrant article and an accompanying warrant article proposing General Bylaw changes in order to provide for siting, Select Board licensing, and local regulation of Marijuana Delivery Operators and Marijuana Couriers. The foregoing warrant article proposes caps on the two new license categories that are the same as the cap for the formerly denominated "Delivery Only" Marijuana Retailer (now termed the "Marijuana Courier") and other Marijuana Retailers (since the "Delivery Operator" will, in fact, sell marijuana and marijuana products to consumers). The Town has no experience with either use and, therefore, it seems prudent to establish caps at the outset of permitting/licensing these uses while any community impacts are assessed. As with any Marijuana Establishment applicant for a special permit and Select Board license, these two new types of marijuana businesses will

undergo site plan review through the Planning Department, Planning Board and Zoning Board of Appeals processes, as well as cross-departmental review in connection with determining Select Board license conditions and eligibility for a license.

The foregoing warrant article also proposes to delete a provision for licensing of Medical Marijuana Treatment Centers under an older bylaw (Article 8.34 of the General Bylaws), since NETA was the only entity licensed under it and NETA is now fully licensed pursuant to the existing Article 8.37 instead of under Article 8.34.

The foregoing warrant article proposes to delete regulatory language governing operations and related matters that is duplicative of the language in the Town's General Bylaws. In 2018, the language was inserted into both bylaws because the State marijuana laws was new and it was unclear then which form of regulation the Attorney General's Office would approve. Since then, the regulatory language that was included in both the General and Zoning Bylaws was approved. Therefore, the Planning Department proposes to delete the language from the Zoning Bylaw, since it is more properly included in a General Bylaw (which can be amended more easily to accommodate State regulatory changes and other circumstances).

Both the proposed General Bylaw and Zoning Bylaw amendments propose to amend some definitions in the existing bylaws in order to bring them into greater uniformity with the new CCC terminology.

The foregoing warrant article references licensing of "primary use" versus "mixed use" Social Consumption Marijuana Retailers, now pursuant to a Select Board and not a CCC licensing scheme. The new CCC regulations eliminate the distinction (and instead reference a generic "Social Consumption" license for any establishment selling marijuana for on-premises consumption); therefore, if there is to be a distinction between "primary use" and "mixed use" Social Consumption Marijuana Retailers, it must be maintained locally pursuant to a Select Board licensing scheme, if at all. Currently, the Town does not permit Social Consumption Marijuana Retailers, as the vehicle for permitting them, pursuant to State law, is a Town-wide vote that has not occurred. The foregoing proposes the language change referencing Select Board "primary use" versus "mixed use" licenses solely for purposes of bringing the language into conformity with the current CCC regulations. In the event that efforts begin to legalize Social Consumption Marijuana Retailers within the Town through the legally-required Town-wide vote, this language and the distinction it makes should be revisited. Likewise, the proposed General Bylaw amendments retain the "primary use" and "mixed use" distinction for now, in light of the above.

Use 20D has been added to allow the Marijuana Delivery Operators license. This use is allowed by Special Permit in districts zoned Industrial (I), and Office (O). To support the CCC's mission of prioritizing Social Equity and Economic Empowerment candidates, the maximum limit of 5,000 sf floor area is proposed.

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ARTICLE XX ARTICLE

Submitted by: Planning and Community Development Department

To see if the Town will:

- 1) Amend Section 2.04.3 of the Town of Brookline Zoning By-law as follows (deletions appearing in strikeout, new language in underline):

## §2.04 – “D” DEFINITIONS

...

## 3. DWELLING

Dwelling, Attached: A building designed or occupied as a resident and separated from another attached dwelling on one or both sides either by a vertical party wall or walls or by a contiguous wall or walls without side yards.

- a. Dwelling, Detached: A building which is designed or occupied as a residence and is substantially separated by side yards from any other structure or structures except accessory buildings.
- b. Dwelling, Multiple: A building or structure designed or occupied as a residence by more than three families, but not including groups of attached dwellings; an apartment house.
- c. Dwelling, Live/Work Space: A building or any portion thereof containing common work space areas and/or dwelling units measuring no more than 900 square feet in gross floor area per unit that are used by at least one occupant as both their primary residence and primary work/artist studio space, including use 46 (Light Non-Nuisance Manufacturing) and 58A (Home Office) as certified annually by the property owner with the Building Commissioner.
- d. ~~Dwelling, Age Restricted: A building where all residents are 62 years of age or older. Such units shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document in a form reasonably acceptable to Town Counsel that shall be recorded at the Registry of Deeds or the Land Court. Age and occupancy restrictions shall not preclude reasonable, time-limited guest visitation rights or accommodation for caretakers for the primary resident. The age and occupancy restrictions shall be enforceable solely against the violating unit and not the development as a whole, by the owner of one or more dwelling units or by the Town of Brookline. In the event of a violation, and at the request of the Town, the owner of the unit shall comply with the age and occupancy restrictions.~~
- e. Dwelling, Micro Unit: A building or any portion thereof containing residential units measuring no greater than 500 square feet in gross floor area per unit.

~~Buildings containing Micro Units may have flexible common areas for living and/or working.~~

- 2) Amend Section 4.07, Use 6C and Use 6D of the Town of Brookline Zoning By-law as follows (deletions appearing in ~~strikeout~~, new language in underline):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
6C. Dwelling, Age Restricted  *Permitted by special permit in the I (EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	No	No	No*
6D. Dwelling, Micro Unit  *Permitted by special permit in the I (EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	No	No	No*

- 3) Amend Section 5.06.4.j of the Town of Brookline Zoning By-law as follows (deletions appearing in ~~strikeout~~, new language in underline):

j. *Emerald Island Special District*

- 1) The Emerald Island Special District – the area bounded by River Road, Brookline Avenue, and Washington Street – is an area in transition. It has been determined through study by the River Road Study Committee that specific zoning parameters are required to encourage appropriate redevelopment of this district. In developing these zoning parameters, due consideration has been given to the prominent location of this area as a major gateway to Brookline. The proximity of the Muddy River, Emerald Necklace, Longwood Medical Area as well as the differences in the scale of existing buildings, recently permitted and proposed developments, access to transit, and the solar orientation of sensitive nearby uses, including the residences of Village Way and Emerald Necklace Park all combined to shape the Special District parameters. Following a comprehensive study by financial, architecture, urban design and real estate experts, the Committee further concluded that the following concepts related to allowed uses, building heights, building form, parking requirements and the public realm are appropriate for this Special District.

2) Definitions. For the purposes of Section 5.06.4.j, the following terms shall have the listed definitions:

- a. Micro Unit Dwelling: A building where a minimum of 50% of residential units measure no greater than 500 square feet in gross floor area. Buildings containing Micro Units may have flexible common areas for living and/or working.
- b. Age Restricted Dwelling: A building where all residents are 62 years of age or older. Such units shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document in a form reasonably acceptable to Town Counsel that shall be recorded at the Registry of Deeds or the Land Court. Age and occupancy restrictions shall not preclude reasonable, time-limited guest visitation rights or accommodation for caretakers for the primary resident. The age and occupancy restrictions shall be enforceable solely against the violating unit and not the development as a whole, by the owner of one or more dwelling units or by the Town of Brookline. In the event of a violation, and at the request of the Town, the owner of the unit shall comply with the age and occupancy restrictions.

2)3) All applications for new structures, outdoor uses, and exterior alterations in the Emerald Island Special District which exceed a floor area ratio of 1.0, a height greater than 40' and/or seek alternative parking and loading zone requirements shall be permitted only on lots greater than 13,600 square feet in contiguous area and only for the uses described in **Section 5.06.4.j.3** **Section 5.06.4.j.4**, shall be subject to Site Plan Review by the Planning Board as described in **Section 5.06.4.j.4** **Section 5.06.4.j.5**, shall be subject to the requirements of **Section 5.09**, Design Review, shall obtain a special permit per **Section 9.03**, and shall meet the following requirements:

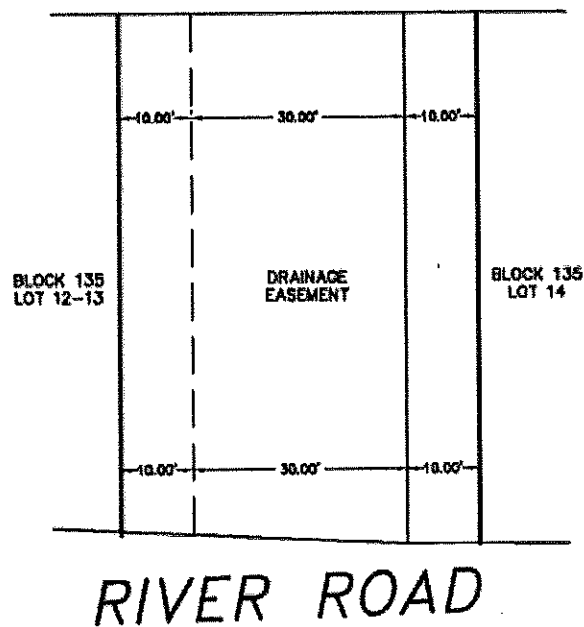
- a. **Setbacks and Sidewalk Widths:**
  - i. All buildings shall be setback 10 feet from the mid-district drainage easement as shown in Figure 5.06.4.j.1 below.
  - ii. All buildings shall be setback 45 feet from the Point of Intersecting Tangents of Brookline Avenue and River Road as shown in Figure 5.06.4.j.2 below.
  - iii. Notwithstanding **Section 5.01** and other than as provided in **Sections 5.06.4.j.2a.i** **5.06.4.j.3.a.i** and **5.06.4.j.2a.ii** **5.06.4.j.3.a.ii**, there shall be no additional setback requirements except as is necessary to achieve the required sidewalk widths for the district. For the purposes of the EISD only, sidewalk shall be defined as the area between the building facade and the face of the curb. The required sidewalk width shall be measured from the ground level of the proposed building facade to the face of the curb at the time of special permit application. All sidewalks shall maintain a minimum 5 foot wide walkway clear from all obstructions, including, but not limited to tree pits, structural columns and street furniture. The minimum sidewalk width along Brookline Avenue and River Road



shall be no less than 12 feet. The minimum sidewalk width along Washington Street shall be no less than 10 feet.

- iv. Where it can be demonstrated that achieving the required sidewalk width would be infeasible in limited areas, the Board of Appeals may by special permit reduce the required width of the affected areas to no less than 8 feet on Washington Street and River Road. No relief may be granted for a reduction in sidewalk width along Brookline Avenue. Applicants for a special permit to reduce the width of a sidewalk shall provide written and graphic documentation to the Planning Board illustrating why the required width is not attainable in the affected area. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to reduce the width of the sidewalk in limited areas. Where relief is granted, applicants shall provide counterbalancing amenities in the form of wider sidewalks and/or landscaping on-site or in the immediate area adjacent to their site, subject to the review and approval of the Planning Board.

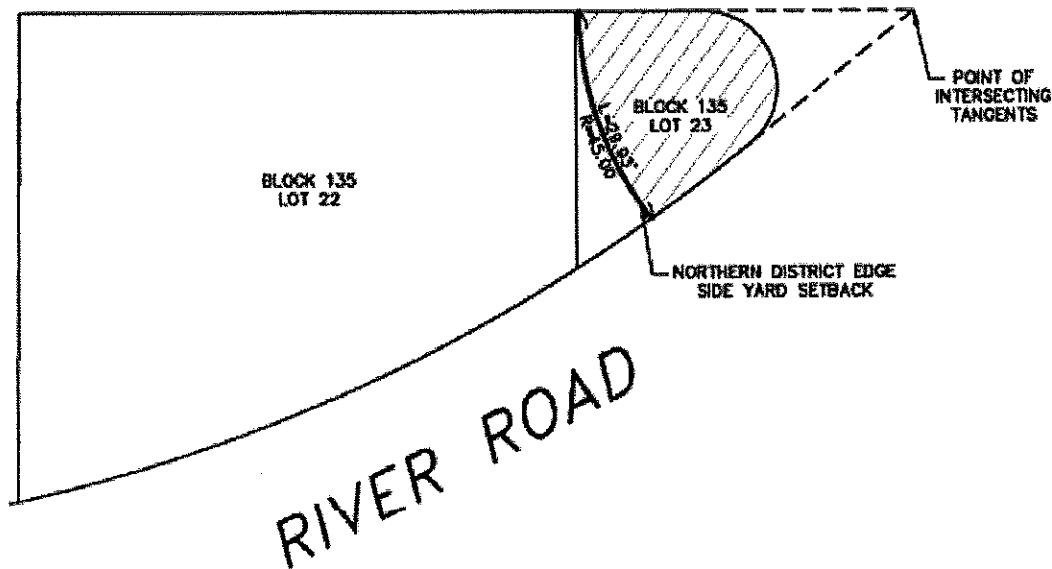
## BROOKLINE AVE



LEGEND:  
 10' SET BACK LINE ———  
 EASEMENT LINE ———  
 PROPERTY LINE ———

Figure 5.06.4.j.1 Setbacks from Mid-District Drainage Easement

## BROOKLINE AVE



**Figure 5.06.4.j.2 Northern District Edge Sideyard Setback**

- b. The minimum finished floor to floor height for all ground floor levels shall be no less than 15 feet.
- c. No permanent on-site parking spaces shall be located on the ground level in the Special District.
- d. All new buildings and renovations to existing buildings shall be LEED Silver Certifiable or higher. Applicants shall provide evidence to the satisfaction of the Building Commissioner and Director of Planning and Community Development that all new construction and renovations of existing buildings are LEED Certifiable Silver or a higher rating via the provision of a LEED scoring sheet. The construction or renovation of such buildings consistent with these plans shall be confirmed prior to the issuance of a Certificate of Occupancy.
- e. Street trees shall be provided at regular intervals approximately every 25 feet along the sidewalks of Brookline Avenue, Washington Street and River Road. The size, location and species of all trees at the time of planting and the final design of all landscaping in the public way shall be approved by the Director of Parks and Open Space or his/her designee. In circumstances where trees cannot be provided as stipulated above as determined by the Director of Parks and Open Space or his/her designee, the applicant shall provide an equivalent amount of trees and/or landscaping at appropriate locations on the site or make a financial

contribution to the Town in an equivalent dollar amount for similar improvements in adjacent parks and public spaces.

- f. The applicant shall devote no less than 1% of the hard construction cost of constructing its project, (including any building, site work, above ground or underground structures, but exclusive of tenant fit-up) to making off-site, streetscape and parks improvements within 500 feet of the Special District boundaries. In addition to review by the Planning Board, a plan of the proposed off-site improvements shall be submitted for the review and approval of the Director of Transportation and the Director of Parks and Open Space or their designees. Alternatively, with the approval of the Director of Transportation and the Director of Parks and Open Space, the applicant may make a financial contribution to the Town in an equivalent dollar amount to be used by the Town for such purposes.
- g. Public seating and pedestrian-scale lighting shall be provided at regular intervals. The location, number and design of all seating and lighting in the public way shall be approved by the Director of Parks and Open Space or his/her designee.
- h. Notwithstanding the provisions of **Sections 6.06.6 and 6.07**, the number and size of required loading zones may be reduced in accordance with Site Plan Review as noted in **~~Section 5.06.4.j.4~~ Section 5.06.4.j.5** below.
- i. A building shall not have more than 30% of its frontage along a street devoted to residential use including associated lobby use.
- j. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential, or office, or hotel use without being considered an accessory use.

#### 3)4) Exceptions to Maximum FAR and Maximum Height

- a. Additional height may be granted by special permit up to 85 feet for buildings primarily containing Micro Unit Dwellings, Age Restricted Dwellings or only the following uses: 6B (Dwelling, Live/Work Space); ~~6C (Dwelling, Age Restricted); 6D (Dwelling, Micro Unit)~~ 8 (Hotel); 8A (Limited Service Hotel); 20 (Medical Office); 21 (Professional Office); 29 (Store less than 5,000 SF); 30 (Eating Place less than 5,000 SF); 33 (Stores not exceeding 10,000 SF); 33a (Stores over 10,000 SF); 34 (Place for the sale and consumption of food and beverages exceeding 5,000 SF); 66 (Accessory Laboratory), only for buildings located a minimum of 189.12 feet from the intersection of Washington Street and Brookline Avenue, provided that the footprint of any building mass above a height of 65 feet covers no more than 55% of the lot area. Buildings may also contain Principal Uses 18A (Small Group Health/Fitness), 20a (Licensed Veterinarian), and 32 (Service Business) provided that such uses occupy no more than 25% of the building. The required 189.12 foot distance from the intersection of Washington Street and Brookline Avenue shall be measured from the Point of Intersecting Tangents as show in Figure 5.06.4.j.3 below.

- b. Additional height of up to 110 feet may be granted by special permit for buildings containing only the following uses: 8 (Hotel) and 8A (Limited Service Hotel) and only for buildings with frontage on Washington Street provided that the footprint of any building mass covers no more of the lot area than is specified in Table 5.06.4.j.1 and as depicted in Figure 5.06.4.j.4 below. Where an applicant can demonstrate that additional lot coverage for any building mass above 35 feet would result in an improved building design, the Board of Appeals may by special permit grant an increase in the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. Applicants for a special permit to increase the maximum percentage of lot coverage shall provide written and graphic documentation to the Planning Board and Design Advisory Team illustrating how the building design has improved. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to increase the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. The Design Advisory Team shall provide a similar affirmative written recommendation.

**Table 5.06.4.j.1 Maximum % Lot Area Coverage by Building Height**

<b>Building Mass Heights</b>	<b>Maximum % Lot Area Coverage</b>	<b>Maximum % Lot Area Coverage By Special Permit with Planning Board Recommendation</b>
0 up to 15'	80%	N/A
15' up to 35'	92%	N/A
35' up to 50'	80%	85%
50' up to 75'	75%	80%
75' up to 110'	50%	55%

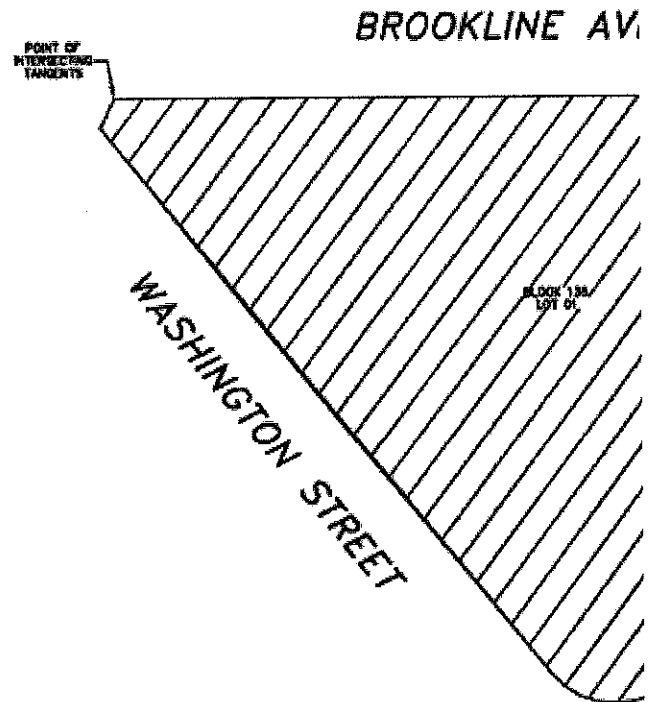
**4)5) Site Plan Review**

- a. All applications for new structures shall be subject to site plan review by the Planning Board to: ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan

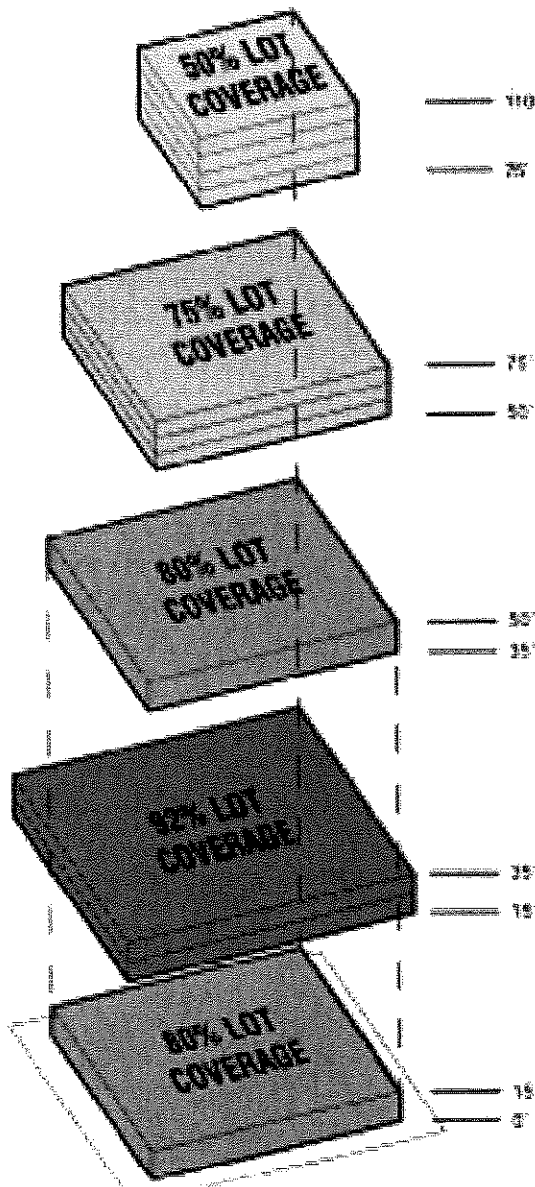
# 10.A.

review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

- i. Property lines and physical features, including roads, driveways, loading areas and trash storage for the project site;
- ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting and exterior lighting.



**FIGURE 5.06.4.j.3 Required Distance from Washington Street**



**FIGURE 5.06.4.j.4 Maximum % Lot Coverage by Building Height**

5)6) Parking and Vehicular Requirements:

- a. Notwithstanding **Section 6.02**, there shall be no minimum parking requirements for the following uses and such uses shall have the maximum parking limits noted in Table 5.06.4.j.2 below.
- b. Notwithstanding the above, where it can be demonstrated that additional parking is needed, the Board of Appeals may by special permit increase the maximum parking ratio by no more than 20%. Applicants for a special permit to increase the maximum parking ratio shall provide written documentation to the Planning Board demonstrating the need for additional parking. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to increase the maximum parking ratio by no more than 20%.
- c. Notwithstanding the above, dedicated spaces for Car Sharing Organizations (CSO) may be provided without regard to such maximum parking limits. If such dedicated parking spaces are not leased by any CSO they shall be dedicated to bicycle parking and appropriate bicycle parking hardware shall be provided.

**Table 5.06.4.j.2 - Maximum Parking Limits**

USE	MAXIMUM PARKING
Principal Use 6B (Dwelling, age-restricted) <u>Age Restricted Dwelling</u>	1.25 per unit
Principal Use 6CB (Live/Work space)	0.50 per unit
Principal Use 6D (Dwelling, Micro Unit) <u>Micro Unit Dwelling</u>	0.50 per unit

Principal Use 8 (Hotel) and 8a (Limited Service Hotel)	0.40 per room
Principal Uses:	
18A (Small group health/fitness); 20 (medical office); 20a (Licensed veterinarian); 21 (professional office); 29 (store less than 5,000K SF); 30 (Eating places less than 5,000K SF); 32 (Service use business); 33 (Stores not exceeding 10,000K SF); 33a (Stores over 10,000K SF); 34 (Place for sale and consumption of food not exceeding 5,000K SF); 66A (Accessory Laboratory)	1.50 per 1,000 SF

6)7) Design Standards:

- a. Building facades parallel to or within 45 degrees of parallel to any property line shall be designed and constructed with equal care and quality. Visual articulation shall be achieved for each facade by (a) employing variations in materials and/or ensuring that no portion of any such facade is coplanar or unbroken for more than 3,500 square feet without a change in depth of 2 feet or more, or (b) utilizing alternative methods of vertical or horizontal articulation, or (c) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for the reasons expressed in such written determination. The Planning Board and the Board of Appeals shall provide a similar written determination and reasons with respect to facade design. During their review of all proposed building designs, both the Design Advisory Team and Planning Board shall consult the Emerald Island Special District Design Guidelines developed by the River Road Study Committee for guidance on general exterior massing, scale and design.
- b. In order to minimize visual and audible impacts, all rooftop mechanical equipment shall be insulated and screened to the greatest extent possible from all public ways via substantial screening materials and/or shall be located in the interior of the building. Additionally, all rooftop mechanical equipment shall be located such that all shadow impacts are minimized.

Or act on anything relative thereto.

## PETITIONER'S ARTICLE DESCRIPTION

### Background

At the 2016 Special Town Meeting, Warrant Article 7 was approved. The article established the Emerald Island Special District which aimed to encourage mixed-use development within the boundaries of the district. Some of the uses that the article aimed

to encourage included three residential uses: Micro Unit Dwellings, Age Restricted Dwellings, and Live/Work Space Dwellings. The Article created new definitions and use categories for these three residential uses and, within the District, they received special benefits (notably, a reduction in parking requirements). The aim was to incentivize property owners to include such residential units in any new buildings and thereby provide desirable housing for seniors and young professionals in a particularly urbanized section of town. Unfortunately, Warrant Article 7 was inadvertently drafted in such a way as to prohibit the three new residential categories in every other zoning district. Naturally, age-restricted dwelling units and particularly small units are not unusual in Brookline and exist in many existing buildings. The inadvertent prohibition of these dwelling units was identified as part of the discussions surrounding a proposed warrant article (Article 27 regarding micro units) for the Fall 2020 Special Town Meeting, and it was agreed by Town Meeting that the issue should be resolved by the Planning and Community Development Department for the next session of Town Meeting.

#### Purpose and Effect

The purpose of this warrant article is to allow the by-right construction of small housing units (Micro Unit Dwellings) and age-restricted units throughout town. This warrant article accomplishes this by (1) eliminating the definitions and use table categories for “Micro Unit Dwellings” and “Age-Restricted Dwellings” from the Zoning By-law and (2) making amendments to Section 5.06.4.j (the Emerald Island Special District) to reintroduce those categories for the purposes of that section only.

- 1) By eliminating from the definitions and use table any references to micro unit dwellings and age-restricted dwellings, such units would fall under other “dwelling unit” categories (Uses 1-6) and be permitted in a manner consistent with the building typology in which they are located. For example, a unit with 400 square feet (a micro unit) located in a multifamily building would be treated no differently than other multifamily units and a unit with 400 square feet in a two-family building would be treated no differently than other units in two-family buildings. The same goes for age-restricted dwelling units.
- 2) The Emerald Island Special District contains special provisions for micro unit dwellings and age-restricted dwellings. To preserve those special provisions, this article reintroduces the definitions for Micro Unit Dwellings (with some adjustments, see below) and Age-Restricted Dwellings into Section 5.06.4.j but stipulates that the terms and their definitions are for the purposes of that section only.

This warrant article seeks to simply copy the existing definitions for micro unit dwellings and age-restricted dwellings and relocate them into the Emerald Island Special District section of the Zoning By-law. However, because of confusion surrounding the existing definition for micro unit dwellings, that definition has also been adjusted to make it consistent with the Building Commissioner’s initial interpretation of the existing definition.

Finally, due to the insertion of a new paragraph 2 into Section 5.06.4.j, numbering for the following paragraphs in the Section (and references to such paragraphs) have been adjusted accordingly.



## 10.A.

It should be noted that Town Meeting may be inclined to, in the future, amend the Zoning By-law to include provisions that apply specifically to micro units or age-restricted units (such as a reduction in the minimum parking requirements). If that were the case, the recommended course of action would be to define the terms under Section 2, Definitions of the Zoning By-law and then refer to those terms in the new provision.

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### SELECT BOARD'S RECOMMENDATION

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### ADVISORY COMMITTEE'S RECOMMENDATION

**XXX**

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2021 FEB 12 AM 10:37

Proposed Warrant Article to require agenda packets of public bodies subject to OML be posted on the Town website concurrent with being distributed to members  
Version February 2, 2021

Submitted by: Mike Toffel, TMM8 and Neil Gordon, TMM1

To see if the Town will amend Article 3.21 of the Town's General By-laws as follows (language to be stricken appearing in strikeout, language to be added appearing in underline):

## **ARTICLE 3.21**

### **READILY ACCESSIBLE ELECTRONIC MEETING NOTICES, AGENDAS, INFORMATION, AND RECORDS**

#### Section 3.21.1 Purpose and Applicability

This by-law applies to all the meetings of all Town of Brookline governmental bodies public bodies subject to the Open Meeting Law, now G.L. c. 39, ~~§§23A-30A~~, §§18-25 et seq. (hereinafter, respectively, "public meetings" and "OML"), and is intended ~~(a) to take advantage of the internet and its increasing use;~~ (b) to better implement the spirit of the OML; and ~~(c) to the extent reasonably practical,~~ to improve opportunities for broader and more meaningful citizen participation by Residents and other interested parties in the business of Town ~~governmental~~public bodies.

#### Section 3.21.2 Electronic Notification List(s) & Calendar

The Information Technology Department ("ITD") shall maintain one or more broadly available list(s) for the purpose of providing electronic notifications (such as by email) to Town Meeting Members and other Town residents who request to be included, prominently promoted on the Town website's Homepage, along with a link to a readily available and current Calendar of upcoming meetings.

#### Section 3.21.3 Meeting Notices, ~~and~~ Agendas, and Information

(a) Each meeting "notice" required by the OML shall not only be "posted" ~~under~~ in accordance with the OML at least forty-eight hours before the meeting but, additionally, shall be posted in electronic format as soon as is practicable on the Town website Calendar after said meeting has been scheduled. ~~To the extent possible, each posting~~ Each such notice shall include (i) an

agenda that is reasonably descriptive of the intended business of the meeting, subject to later revisions as needed in compliance with the OML, and (ii) the name of a contact person along with contact information for further inquiries, for forwarding messages to the relevant ~~governmental~~ public body, for obtaining background information to the extent readily available, and for obtaining contact information (or a website link containing such information) for all ~~of~~ members of the ~~governmental~~ public body, and (iii) webpage link(s) on the meeting agenda to such documents that the public body chair and/or their designee circulates to public body members in advance of the meeting (hereafter called the "Agenda Packet"). All documents circulated to public body members in advance of the meeting shall at the same time be made available to the public.

Additional items made available to public body members during and subsequent to the meeting are also part of the Agenda Packet, and shall forthwith and similarly be made available to the public as soon as practicable, and no later than forty-eight hours after the meeting. Notwithstanding anything herein to the contrary, no documents need be made available under this Article if such documents are exempt from disclosure under applicable law.

(b) With the assistance and direction of the Town Clerk and ITD, the information specified above shall be disseminated in a timely manner to members of the public who join the aforementioned notification list(s).

(c) Each public body chair and/or their designee shall use all best efforts to post the Agenda Packet (and any and all updates thereto) sufficiently in advance of the meeting to allow the public body members and the public to read and comprehend the materials in the Agenda Packet prior to the meeting.

#### Section 3.21.4 Records

Records of meetings of all Town ~~governmental~~ public bodies shall be reasonably descriptive of the business conducted, ~~and~~ shall include a summary of discussions, in addition to indicating actions taken and other requirements of the OML, and shall include link(s) to the Agenda Packet and to any electronic recording of the meeting, and shall be accessible electronically from the Town website as soon as is practicable following the meeting at issue.

## Section 3.21.5 Enforcement

As to mandates of this by-law that exceed those of state laws, including the OML, all officials, boards and committees responsible for appointing members of committees subject to this by-law shall ~~periodically~~ notify their appointees in writing of the requirements of this by-law. Such notification shall be provided no later than when appointees and chairs are sworn in by the Town Clerk. No additional enforcement powers are hereby conferred upon the ~~Norfolk County District~~ Attorney General beyond the responsibility of such office with respect to state law, including the OML, nor shall actions taken at any meeting be held invalid due to failure to comply with any requirements of this bylaw that exceed those of state laws, including the OML.

~~Section 3.21.6 Effective Date~~

~~The requirements of this by-law shall become effective on July 01, 2008.~~

or act on anything relative thereto.

### PETITIONER'S EXPLANATION

Brookline has 74 boards, committees, and commissions that discuss Town policies, procedures, and regulations, according to the Town's "Boards and Commissions" website (<https://www.brooklinema.gov/165/Boards-Commissions>, as of December 23, 2020). Town Bylaws require meeting notices and agendas to be posted on the Town's website and disseminated to all who ask.

However, few of the Town's boards, committees, and commissions routinely post to the Town's website the documents that are distributed to members of those public bodies in advance of, during, or after their meetings. These documents are sometimes collectively referred to (as in the case of the Select Board) as the Agenda Packet, even though sometimes the documents are distributed piecemeal to members via a series of emails. Thus, in most cases, the public is not provided equal—and sometimes any—access to information that could enable them to prepare to make well-informed public comments, follow the meeting's discussions in a well-informed manner, or fully understand the meeting's minutes after the fact.

This Article seeks to remedy this by requiring all Agenda Packet documents to be posted on the Town's website at the same time that they are distributed to members of the board, committee, and commission, and to be retained, and made readily available to the public, as part of the record of a meeting. Public comments emailed to the public body can be easily printed-to-PDF and included in the Agenda Packet. Alternatively, staff could create a publicly visible listserv such as groups.io, the system used by the Town Meeting Members Association (TMMA), for the public to send emails, which would then be immediately visible to both public body members and the public.

Ideally, the documents would only be posted to the website, and members of the committee and the public alike would be directed there to find them. This would ensure that committee members and the public have access to the same documents—and to the latest versions should they be updated. That said, emailing documents to committee members and the public would still be permitted, as long as those documents were simultaneously posted on the Town website at a URL specified on the meeting's agenda – except for those documents that are exempt from such disclosure.

When a similar article was proposed to Town Meeting in November 2017 (Article 16), questions were raised by Advisory Committee and CTO&S about whether all documents can be digitized and posted in a timely manner, technology issues that are more easily manageable now. Town Meeting referred that article to the Select Board with a request that it present a report to the May 2018 Annual Town Meeting.

Three years later, this transparency measure is still not widely practiced. Highlights of the Town's efforts in this regard are that (1) the Select Board, (2) the Select Board Committee on Policing Reforms, (3) the Task Force to Reimagine Policing in Brookline, and (4) the Transportation Board do post their Agendas linked to Agenda Packets on a Town website (<https://meetings.brooklinema.gov/OnBaseAgendaOnline>), and the first three of these bodies post agendas hyperlinked to the relevant items to the Agenda Packet, which makes them much

easier to find. However, the website is not widely known, and not linked from the Town's calendar items. The Select Board has recently begun pilot testing including a link to this website in their agendas distributed through Notify Me agendas, a laudable move. However, 70 of the Town's 74 public bodies have not yet adopted these practices.

The School Committee routinely posts its Agenda Packet in advance of its meeting on a PSB website (<https://www.brookline.k12.ma.us/Page/2087>), but its agendas do not refer to this website, making it difficult for the public to know that the Agenda Packet is available, hampering the public's ability to arrive at School Committee meetings well informed.

To implement this proposal, Town staff would need to decide whether the OnBase system that the Select Board currently uses is the appropriate IT solution (and, if not, price alternatives), and train staff to use the system. To reduce costs, a "train the trainer" model could be considered, whereby only a few staff members enroll in formal training, and they then train their peers.

Note the proposed changes from "governmental bodies" to "public bodies" (which reflects language from the amended Open Meeting Law) as well as the updated legal reference of the Open Meeting Law were made at the suggestion of the Town's General Counsel.

This proposal incorporates two by-law amendments recently passed by Town Meeting but not yet been incorporated in by-laws posted on the Town's website: (1) "participation by Residents and other interested parties" replaced "citizen participation" in Section 3.21.1; and (2) "members of the public who join" replaced "citizens who joins" in Section 3.21.3(b).

The cost of implementing this change is modest, and limited to the training referenced above and, perhaps, a modest software investment.

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2021 FEB 12 A 10:42

## Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
1 ✓	Maura Toomey	MAURA TOOMEY	102 Crowninshield Rd
2.	P. Smith	Steven Gilbert	102 Crowninshield Rd
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5			
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2021 FEB 12 A 10:37

## Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*



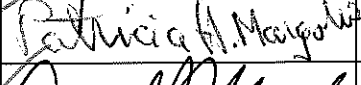

	Signature	Printed name	Address
1	✓ Tracie B	Tracie Burns	100 Beals St.
2	✓ Andrea Roberts	Andrea Roberts	120 Naples Rd
3	✓ Mark G	MARIC GIGLIOTTI	25 Green St
4	✓ Deborah Fung	Deborah Fung	43 Beals St.
5	✓ Archon Fung	Archon Fung	43 Beals St
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## Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
1		HADASSAH MARGOLIS	24 STEDMAN ST. BROOKLINE 02446
2		Michael Goldstein	24 Stedman Brookline 02446
3		PATRICIA H MARGOLIS	28 Stedman St Brk
4		Daniel J Margolis	28 Stedman St Brookline, MA 02446
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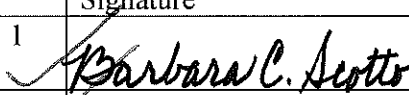
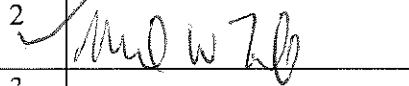
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2021 FEB 12 A 10:37

## Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
1		Barbara C. Scotto	26 Crowninshield Rd.
2		MICHAEL TOFFEL	25 Abbottsford Rd
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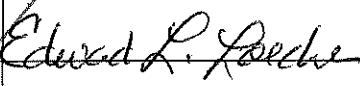
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2021 FEB 12 A 10:37

For Taffel and Gordon

Proposed Warrant Article to require agenda packets  
 Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

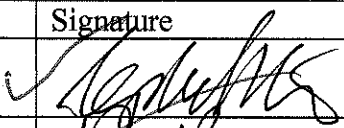
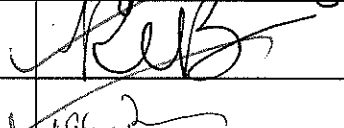
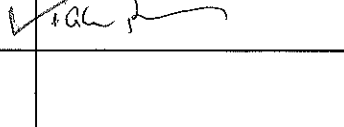
	Signature	Printed name	Address
1		Edward L. Loecher	106 Beals St.
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 2011 FEB 12 A 10:37

## Warrant Article signature page

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
1		RAFAEL BUENO	39 Adams St
2		Rebecca Bueno	39 Adams St
3		Kate Roveiman	39 Adams St
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## PETITION TO SUBMIT A WARRANT ARTICLE FOR THE 2021 ANNUAL TOWN MEETING

To see if the Town will amend Section 4.08 of the Brookline Zoning Bylaw (Inclusionary Zoning) as further detailed below.

21 MAR 1 AM 11:29

PRINT NAME	SIGNATURE	ADDRESS	PRECINCT
1 ROGER BLOOD	[Signature]	69 Cleveland Road	13
2 STEVEN HEIKIN	[Signature]	57 HARRIS RD.	7.
3 MICHAEL JACOB	[Signature]	41 COULIDGE ST.	9
4 RITA K. McNALLY	[Signature]	230 St. Paul St.	2
5 PAM Goodman	[Signature]	28 RAWSON RD	12
6 Jonathan Klein	[Signature]	150 St. Paul #406	10
7 Amy SCHOTTENFELS	[Signature]	150 St. Paul #406	10
8 LINDA HAMLIN	[Signature]	6 WELLINGTON TER	5
9 DAVID HAMLIN	[Signature]	6 WELLINGTON TERR	5
10 JOHN DOGGETT	[Signature]	8 Penniman Rd	13
11 JENNIFER DOGGETT	[Signature]	8 Penniman Rd	13
12 Jennifer Raitt	[Signature]	2 Harvard Sq #1	4
13 John Freeman	[Signature]	530 Clinton Rd	13
14 Heather Hamilton	[Signature]	75 Longwood Ave #3F	3

## Para. 2.c: Definitions, AFFORDABLE UNIT

c. AFFORDABLE UNIT means a dwelling unit which meets the following conditions:

1) In a project in which affordable dwelling units will be rented, a unit shall be considered an affordable unit if:

(a) it is rented to an eligible low or moderate income household; and

(b) it is made available at an initial rent that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income set at 10 percentage points less than the applicable income limit would be paying 30% of gross income on rent and tenant-paid utilities, unless the occupant has a tenant-based subsidy, in which case the rent may be the amount allowed under the subsidy, provided that the occupant is not paying more than 30% of gross income on rent and tenant-paid utilities.

pp. 1 of 2 cont'd →

## Article \_\_

**Proposed Amendment to Zoning Bylaw Section 4.08 (Inclusionary Zoning)****EXPLANATION**

The proposed Bylaw amendment is intended to achieve the following objectives:

1. To modify the Town's Bylaw definition of "Affordable Unit" so that it aligns with the State's Local Initiative Program (LIP) affordable housing regulations. These regulations determine eligibility for inclusion on the state's Chapter 40B Subsidized Housing Inventory (SHI). This technical change aligns the Town's by-law to the state's method of determining eligible household size for specific unit sizes and setting monthly rents such that they do not exceed 30% of the target household's monthly income.
2. To differentiate between rental and owner-occupied affordable housing in terms of the range of qualifying household incomes that are served. Under the present Bylaw, there is no such differentiation between household incomes that are served by rental versus owner-occupied affordable units. Under the proposed by-law, affordable rental units will serve households whose range of eligible incomes will be lower than the range of targeted incomes for affordable ownership units.
3. To authorize the targeting of required affordable units, both rental and owner-occupied, to low-and moderate-income households whose incomes fall within different affordability ranges, and to do so in such a manner that the compliance costs to the developer are generally equivalent irrespective of which income range of affordability is targeted. When a developer produces affordable units that serve households having higher than the minimum range of targeted incomes, the developer will be required to pay a supplemental fee into the Town's Housing Trust (see more detail below).

**Current Bylaw**

Under the existing Zoning Bylaw Section 4.08 (Affordable Housing Requirements), new residential projects of 20+ units must include on-site affordable units. A minimum of 15% of all new units in the development must be affordable to low- and moderate-income levels as defined in the Bylaw.

As long as the Town continues to have less than 10% of its total housing stock listed on the state's Chapter 40B Subsidized Housing Inventory (SHI), the current Bylaw mandates that 2/3 of the 15% onsite affordable units must serve households with incomes not exceeding 80% of Area Median Income (AMI). The remaining 1/3 of the affordable units may serve households

with incomes exceeding 80% AMI up to 100% AMI. In the current Bylaw this 2/3-1/3 affordable unit requirement relating to household income limits applies equally to both rental and ownership projects.

### **Proposed Bylaw Amendment**

In anticipation of the Town soon reaching and exceeding the Chapter 40B 10% threshold and the expiration of the Bylaw's existing income limits, the proposed warrant article would replace the current income limits. All future projects subject to Inclusionary Zoning would be able to serve a wider range of household incomes, with affordable rental units being targeted more to lower income households and affordable ownership units targeted more to moderate income households as follows:

1. Rental Units: 15% of the units will be required to serve households earning up to 50% of AMI. If the developer wishes to have the affordable rental units serve an income tier greater than 50% of AMI but not exceeding 100% of AMI, the developer will be required to pay an additional fee to the Housing Trust based on the overall value of the property as certified by the Town Assessor. The Guidelines will provide further details and examples on how the fee will be calculated.
2. Ownership Units: 15% of the units will be required to serve households earning up to 80% AMI. If the developer wishes to serve an income tier higher than 80% AMI (either 100% or 120% AMI), an additional fee based on the sales prices of all ownership units will be payable to the Housing Trust. The Guidelines will provide further details and examples on how the fee will be calculated.

Under both the existing and proposed amended Bylaw, for projects having 4 to 19 units, the developer has the option of paying a lump sum fee to the Affordable Housing Trust in lieu of producing the required onsite affordable units. Should the developer choose to produce onsite affordable units in such smaller projects, all the new income targeting and supplementary fee requirements contained in the proposed Bylaw amendment will apply as in projects containing 20 or more units.

### **How will the supplemental fee be calculated?**

The supplemental fee will allow developers to provide affordable units for different income categories within the permissible range of low-to-moderate household incomes while not benefitting financially from providing affordable units for moderate-income vs. lower-income households.

## 10.A.

To achieve this purpose, the supplemental fee will be set at an amount that will offset the value of the added income the developer would receive, for example, from affordable unit rents to households having moderate incomes at 80% of Area Median versus the lower rents that would be received from households with incomes at 50% of Area Median.

In order to validate this re-targeting of affordable household incomes, including the setting of supplemental fees that are sufficient, but not so excessive as to make development infeasible, the Housing Advisory Board engaged an independent consultant, Pam McKinney of Byrne McKinney Associates, with expertise in real estate markets and finance. Using a financial model, the consultant developed applicable percentage rates to charge, consistent with the purposes of this Article for both rental and owner-occupied inclusionary zoning projects.

In addition, the consultant used her financial model to confirm that the higher developer costs associated with this amendment will strengthen the Bylaw's affordable housing requirements without imposing such high costs as to render new housing development financially infeasible.

**For rental projects with affordable units for households with incomes exceeding 50% AMI:**

The Supplemental fee will be based upon the market value of the residential portion of the project at the time of initial occupancy. Payment of the supplemental fee to the Trust will be a precondition to the Town's issuance of a certificate of occupancy for the project.

The fee required from a developer will be based upon the following formula:

$$\text{Project Value} \times \text{Applicable Percentage Rate}$$

**For ownership projects with affordable units for households with incomes exceeding 80%**

**AMI:** At the time of initial sale of each condominium unit in the project, the fee required from a developer shall be based upon the following formula:

$$\text{Unit Sales Price} \times \text{Applicable Percentage Rate}$$

For both rental and ownership units, in instances where the supplemental fee is charged, the Applicable Percentage Rate will be determined from a table contained in the Guidelines. The amount of the Applicable Percentage Rate will conform with the methodology and recommendations of the consultant.



ARTICLE XXXXARTICLE XXXXX

Petitioner: Select Board

To see if the Town will amend Article 3.12 of the General Bylaws, Department of Planning and Community Development, as follows (language to be stricken appearing in strikeout, language to be added appearing in underline):

## ARTICLE 3.12 DEPARTMENT OF PLANNING &amp; COMMUNITY DEVELOPMENT

## SECTION 3.12.1 ESTABLISHMENT

The Department of Planning & Community Development, hereinafter referred to as the Department, is hereby established. The Department is responsible for the town's planning, development and redevelopment programs and duties, including, without limiting the foregoing: zoning under G.L. c. 40A; subdivision control and planning, under G.L. c. 41, Sections 81A to 81GG, inclusive; all grants & aid functions; the town's housing programs; the town's preservation programs authorized by and implemented under G.L.c. 40C, by the Preservation Commission, authorized by the Historic Districts By-Law and the Demolition By-Law; and the town's economic development and sustainability programs. The Department shall be initially organized and this By-Law implemented on July 1, 1999.

## SECTION 3.12.2 PURPOSE

It is the intent and purpose of this By-Law to consolidate all planning and development programs and duties, all grants and aid functions, all housing programs, all preservation and demolition regulations and requirements and all economic development and sustainability functions and programs into a single department. The consolidation is designed to attain efficiencies and economies of scale, to reduce or eliminate duplication and overlapping of services, responsibilities and functions, and to improve communication and coordination for planning and development functions between and among the various offices and agencies of the town. It is also the intent of this By-Law to provide expanded planning and community development programs and services to the residents, the business community, the non-profit and the other institutions of the town.

## SECTION 3.12.3 DIRECTOR OF PLANNING &amp; COMMUNITY DEVELOPMENT

(A) Appointment & Term of Office. There shall be a Director of Planning and Community Development, hereinafter referred to as the "Director", appointed by the Select Board in accordance with the provisions in Chapter 270 of the Acts of 1985. The appointment shall be made annually for a term of one year, commencing July 1 of each year and continuing until the appointment and qualification of a successor.

(B) Qualifications. The Director shall be a person especially fitted by education, training and experience to perform the duties and exercise the powers of the office.

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(C) Powers & Duties. The Director shall be responsible for the effective management, administration and coordination of all operations within the Department, for all of the fiscal and financial affairs of the Department and the management, administration and control of all personnel assigned to the Department. The Director shall make recommendations to the Town Administrator concerning the appointment and removal of Assistant Directors by the Select Board. The Select Board may establish and, from time to time, change the number of Assistant Directors. Without limiting the foregoing, the initial Department organization shall include an Assistant Director of Planning and an Assistant Director for Housing. An Assistant Director for Economic Development and Assistant Director for Sustainability Planning shall be added when requested by the Town Administrator and authorized by the Select Board. The responsibility for providing administrative and professional assistance to the Preservation Commission, under Section 3.12.11, and the implementation and enforcement of the Historic Districts and Demolition By-Laws shall be added to and become part of duties and responsibilities of the Division of Planning when requested by the Town Administrator and authorized by the Select Board. The Director shall appoint and may remove all other personnel within the Department. The Select Board may appoint the Director to serve as the head of a division, as defined in Section 3.12.4.

In addition to supervising and directing the effective functioning of the Divisions, and without limiting the generality of the foregoing, the Director shall have the following specific powers and duties:

1. To direct, assign and reassign all personnel within the Department, including reassigning personnel between Divisions.
2. To be responsible for the efficient coordination and implementation of the town's economic development, housing, open space, planning and preservation programs, and the administration and implementation of the town's demolition, grants and aid and historic districts decisions and policies.
3. To advise the Town Administrator and Select Board on all matters that are within the scope of the Department's activities and functions.
4. To be responsible for the preparation of the Department's annual budget request and town report, for all expenditures and receipts by the Department and for the administration of the town's personnel rules and orders within the Department.
5. To provide administrative and professional assistance to the Economic Development Advisory Board.
6. To provide administrative and professional assistance to the Housing Advisory Board.
7. To provide administrative and professional assistance to the Planning Board.
8. To provide administrative and professional assistance to the Preservation Commission.
9. To provide administrative and professional assistance to the Board of Appeals.
10. To provide the Town with and from time to time, amend Comprehensive Plans for land use, public and private transportation and parking, open space, recreation, urban renewal, telecommunications and utility services, economic development, housing, historic preservation and also for the future development and preservation of town resources consistent with its physical, social and economic requirements and the health, safety and welfare of the public.
11. To coordinate the town's planning and development functions with other local, regional and state plans and programs.

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12. To supervise the work of consultants used to assist the Department.
13. To review and amend, when appropriate, rules and regulations and procedures relevant to the proper operation of the Department and the implementation of Comprehensive Plans.
14. To develop action standards, notice and hearing guidelines and decision filing procedures to ensure that notice, hearing, and filing requirements for the Department, the Divisions and the boards and commissions that they service are satisfied.
15. To delegate the implementation of any one or more of the powers and duties assigned to the Department to an appropriate Division or Assistant Director.
16. To oversee Grants & Aid functions, including Federal CDBG and HUD programs.
17. To assist in the preparation of the annual capital improvements plan which is required under Chapter 270 of the Acts of 1985 and G.L.c. 41.
18. To report to the Town Administrator, on a regular basis, the current objectives and programs of the Department and the activities of the Department with regard to those objectives and programs.
19. To supervise and evaluate all Assistant Directors in the Department.
20. To provide planning and community development services and programs to the residents, the business community, the non-profit and the other institutions of the town.
21. To facilitate and maximize meaningful input to Town boards and officials to the extent reasonably practical from Brookline Residents and other interested parties, including civic associations and neighborhood organizations.
22. To perform such other duties as may be assigned to the Department by the Select Board or Town Administrator.

#### SECTION 3.12.4 DIVISIONS WITHIN THE DEPARTMENT

The Department shall consist of the following divisions: the Division of Planning, the Division of Housing, ~~and~~ the Division of Economic Development and Long-Term Planning, and the Division of Sustainability Planning. Each Division shall be under the general management and control of an Assistant Director. The Assistant Directors shall be subject to the authority and direction of the Director. They shall render reports to the Director on a regular basis, including in such reports a summary of current activities, a list of both current and long-range issues being reviewed or worked on by the Division and a summary of the objectives and programs being implemented by the Division. Each Division shall perform the duties prescribed by law, the town's By-Laws and assigned to it by the Director.

#### SECTION 3.12.5 DIVISION OF PLANNING

The Division of Planning shall advise and assist in the administration and updating of municipal planning and zoning, in timely and continuing consultation with the public and private agencies and committees that have jurisdiction over the use or regulation of real property within the town. Municipal planning shall include the creation, the review, the revision and the implementation of Comprehensive Plans for open space, land use, for public and private transportation and parking, for telecommunications and utility services, for recreation, for the utilization of town resources, particularly with respect to housing, business and commercial development and redevelopment, and for the careful study, and, when necessary, the preparation of plans of the resources, possibilities and

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needs of the town. The Division shall assist with the maintenance and annual update of the Capital Improvement Plan in accordance with the requirements of the Town Administrator, Chapter 270 of the Acts of 1985, and G.L.c. 41. The Division shall assist the Planning Board with implementation of the Subdivision Control Law and shall provide administrative and professional assistance to the Planning Board.

The Assistant Director of the Division of Planning shall serve as the Secretary of the Planning Board and shall assist the Planning Board with the performance and discharge of the following duties:

- a) Creation, review and amendment of Comprehensive Plans in accordance with G.L.c. 41, §81D.
- b) Review, amendment and implementation of subdivision regulations under G.L.c. 41, §81Q.
- c) Review and report on Urban Renewal Plans under G.L.c. 121A.
- d) Review and report on matters pending before the Board of Appeals.
- e) Review and report on matters specified in or when required under the Zoning By-Law.
- f) Conducting of hearings and the filing of reports, with recommendations, concerning proposed amendments to the Zoning By-Law.
- g) Coordinate and facilitate open space planning and preservation within the town and among town officers and committees.

#### SECTION 3.12.6 PLANNING BOARD

The Select Board shall appoint seven residents to serve on the Planning Board for five year staggered terms. At least one of the appointees must be qualified for such appointment by virtue of relevant and significant experience or training in the field of environmental or urban planning.

The Planning Board is established under G.L.c. 41, §81A, and shall perform and discharge all of the statutory powers and duties required by law, including those set forth in The Zoning Act, G.L.c. 40A, in the Subdivision Control Act and other relevant sections in G.L.c. 41, Sections 81A to 81GG, inclusive, in Chapter 270 of the Acts of 1985 and in G.L.c. 41.

#### SECTION 3.12.7 DIVISION OF HOUSING

The Division of Housing shall initiate modifications and amendments of housing policies for the town, subject to the approval thereof by the Housing Advisory Board (HAB), the Director and the Select Board, and shall assist in the implementation of such policies. In housing matters, the Division shall maintain an effective and productive relationship among policy, programs and development, including affordable housing development under the Town's inclusionary housing provisions in the Zoning By-Law. The Division shall provide administrative and professional assistance to HAB.

#### SECTION 3.12.8 HOUSING ADVISORY BOARD

The Housing Advisory Board, whose powers and duties are more fully set forth in Article 3.13, shall review the town's housing policies and all modifications and amendments thereto proposed by the Division of Housing and shall make its recommendations and

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reports to the Director, the Town Administrator and the Select Board. HAB may initiate recommendations for amending or modifying the town's housing policies and may make recommendations for changes in the town's housing strategy.

#### SECTION 3.12.9 DIVISION OF ECONOMIC DEVELOPMENT AND LONGTERM PLANNING

The Division of Economic Development and Long-term Planning shall, from time to time, recommend modifications and amendments to the economic development, redevelopment, renewal and long-term planning policies of the town. The Division shall initiate policies and programs for the promotion and enhancement of existing business and commercial areas, subject to the approval thereof by the Director, the Economic Development Advisory Board (EDAB) and the Select Board. The Division shall assist in the implementation of such policies and programs. The Division shall maintain a current Economic Development and Long-term Planning portfolio and a list of all completed projects, all projects in process and all projects awaiting implementation. The Division shall provide administrative and professional assistance to EDAB.

#### SECTION 3.12.10 ECONOMIC DEVELOPMENT ADVISORY BOARD

The Select Board shall appoint twelve residents to serve on the Economic Development Advisory Board (EDAB) for three year staggered terms. The present members of EDAB shall continue to serve for the remaining terms of their appointments. EDAB shall review the economic development, redevelopment and renewal policies of the town, and all modifications and amendments thereto proposed by the Division, and shall make its recommendations and reports to the Director, the Town Administrator and the Select Board. EDAB may also initiate recommendations for amending or modifying the town's development, redevelopment and renewal policies and may make recommendations for changes in the town's economic development strategy.

#### SECTION 3.12.11 PRESERVATION

The Department of Planning and Community Development shall provide the Preservation Commission, established under Article 5.6.4 in the By-Laws, with administrative and professional assistance with regard to the performance and discharge of the following duties:

- (A) Promoting the educational, cultural, physical, economic and general welfare of the town through the preservation and protection of its historical assets.
- (B) Implementing and enforcing the Historic Districts and Demolition By-Laws.

#### SECTION 3.12.12 DIVISION OF SUSTAINABILITY PLANNING

The Division of Sustainability shall recommend policies and modifications to such policies to the Select Board in order to promote sustainability and address climate change. The Division shall develop, maintain and update as appropriate a strategic plan to identify mechanisms and programs to implement said policies and to establish

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priorities for future action. The Division shall work with all divisions of the Planning Department and other municipal departments to further the Town's sustainability goals, subject to approval thereof by the Director and the Select Board.

Or act on anything relative thereto.

#### PETITIONER'S ARTICLE DESCRIPTION

In recognition of the growing importance that the Town has placed on addressing climate change, the Town Administrator engaged the Collins Center for Public Management to undertake a study to determine the proper role and placement of sustainability within the Town's organizational structure. The Collins Center released its report in August of 2020, concluding that, "due to the cross-cutting nature of sustainability in local government and high value the community places on climate issues,...the Town needs a strong centralized function to support implementation for a prioritized sustainability agenda." Accordingly, the Collins Report recommended that the Town create a position to be referred to as "Assistant Director for Sustainability Planning" to serve this function and head a new division within the Department of Planning and Community Development.

This amendment to Section 3.12 creates the Division of Sustainability Planning within the Planning Department and, further, consistent with Section 3.12.3, creates an Assistant Director position to lead the new division. 2020 Annual Town Meeting has already approved funding this position effective January 1, 2021. The Select Board subsequently authorized the Planning Director to initiate the hiring process. That process is well underway.

The proposed amendment to Section 3.12 of the General By-laws is formalizing previous actions taken by Town Meeting.

#### SELECT BOARD'S RECOMMENDATION

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#### ADVISORY COMMITTEE'S RECOMMENDATION

## ARTICLE XX [Amendment to Emerald Island Special District (EISD) Regulations]

Submitted by: Kathleen Scanlon, Lisa Cunningham, Scott Englander, Jesse Gray, Jonathan Klein, Werner Lohe, Paul Saner, Michael Zoorob

## Contact information:

kathleenmscanlon@gmail.com  
 lisa@warnercunningham.com  
 senglander1@gmail.com  
 jesse.gray@gmail.com  
 jklein728@gmail.com  
 werner.lohe@gmail.com  
 paulsaner@comcast.net  
 mzoorob@g.harvard.edu

To see if the Town will amend the Zoning By-Law as described herein, and to be numbered appropriately.

1. Amend Section 5.06.4 (j) (2) (d) as follows:

*(Changes in bold and underlined)*

§5.06 – SPECIAL DISTRICT REGULATIONS

5.06.4. j. *Emerald Island Special District*

2) d. All new buildings and renovations to existing buildings shall be LEED Silver Certifiable or higher. **All new buildings shall also be Fossil Fuel Free (FFF), as defined in Section 2.06.2 of this By-Law.** Applicants shall provide evidence to the satisfaction of the Building Commissioner and Director of Planning and Community Development that all new construction and renovations of existing buildings are LEED Certifiable Silver or a higher rating via the provision of a LEED scoring sheet. The construction or renovation of such buildings consistent with these plans shall be confirmed prior to the issuance of a Certificate of Occupancy. **A waiver from the regulations of §5.06.j (2d) may be approved by the Board of Appeals, in its special permit decision, upon a finding:**

- 1.) If supported by a detailed cost comparison provided by the applicant, that strict compliance with the regulation would be financially infeasible, including after utilizing available rebates and credits, or otherwise impractical to implement; or
  - 2.) That strict compliance with the regulation would result in the loss of new affordable housing units eligible for inclusion in the Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory.
2. Amend Section 2.06 of the Definitions of the Zoning By-law as shown below, and renumber the current section 2.06.2 as 2.06.3:

*(Changes in bold and underlined)*

#### §2.06 – “F” DEFINITIONS

1. FAMILY—One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided, that a group of five or more persons who are not within the second degree of kinship, as defined by civil law, shall not be deemed to constitute a family.

**2. FOSSIL FUEL FREE (FFF) --- Refers to new construction that results in an entire building or dwelling unit that uses electricity rather than on-site combustion of fossil fuels (oil or gas) in supporting its operation, with these specific exemptions:**

**A. Backup electrical generators.**

**B. Cooking appliances, including portable propane appliances for outdoor cooking and heating.**

**C. Potable or domestic hot water from centralized hot water systems in buildings with floor areas of at least 10,000 square feet, provided that the Engineer of Record certifies that no commercially available electric hot water heater exists that could meet the required hot water demand for less than 150% of installation or operational costs, compared to a conventional fossil-fuel hot water system.**

**D. The requirements of this article shall not apply to such laboratories and medical facilities, subject to such conditions, as shall be specified from time to time by votes of Town Meeting.**

3. FRATERNITY OR SORORITY HOUSE—A building occupied by a group of students of either sex of a school or college as their residence during the academic year.

or act on anything relative thereto.



### Explanation:

The Town has been evaluating how to create a zoning incentive strategy to encourage Fossil Fuel Free (FFF) construction. This is following the Attorney General's July 2020 review of the November 2019 Town Meeting's Warrant Article 21 (Article 21), which would have mandated FFF construction in Brookline. While the Attorney General determined that this mandate was in conflict with state law, the use of incentives to encourage FFF development was suggested as an alternative.

This warrant article tests the concept of incentivizing FFF development with new zoning opportunities. Rather than proposing a new special overlay district in advance of a planning study, this adds a similar definition of FFF contained in Article 21 as a condition for new construction redevelopment under the existing Emerald Island Special District (EISD). This proposal is consistent with the Planning Department's February 23rd recommendation for FFF as an incentive for participation in future zoning overlays and special districts.

Redevelopment under the EISD passed in 2016 requires compliance with a set of design and development criteria, and the provision of public benefits, in order to obtain the necessary zoning relief. One of these design standards was that any new buildings or renovations in the EISD had to meet LEED Silver Certifiable (or higher) development standards. This language was approved by the Attorney General, presumably because it was an incentive for obtaining the special permit with the expanded dimensional allowances in the EISD.

Where the EISD differs from other overlay districts is that the recently completed Hilton Garden Inn is only one of several parcels of a larger overlay district. In the case of other recent overlay districts, the entire district was set up to address a single development through the use of a Memorandum of Agreement (MOA). All other EISD parcels, {mostly requiring some assembly} have yet to be redeveloped.

The Town has the opportunity to modify the EISD so that future new construction is FFF by adding this requirement in addition to the existing LEED Silver or higher performance standard.

While LEED Silver development was "state-of-the-art" in 2016, the move to FFF construction has since become the gold standard for sustainable development. This simple but significant change in the EISD requirements can establish incentivized FFF "proof-of-concept for new construction," a major step entirely consistent with Article 21 and the Town's movement toward a more sustainable future.

To the Town of Brookline and its Select Board:

The undersigned registered voters in the Town of Brookline hereby request that the Select Board hold a Special Town Meeting to vote on the Warrant Article included in this petition, which addresses FFF incentivization for the Emerald Isle Special District.

Signature:	Address:	Precinct:
1. Pat Scanlon	71 Francis St	3
2. Kathleen Scanlon	71 Francis St	3
3. Bea Scanlon	71 Francis St.	3
4. Pat Duggan	63 Francis	3
5. Mary Dewant Mary Dewant	90 Parker St	3
6. Ben Stein	3 Lawrence Rd	3
7. Jim Sok	3 Lawrence Rd #2	3
8. Mike Mosbrooke	79 Stearns Rd 02446	3
9. Donna Viola Donna Viola	81 Stearns Rd 02446	3
10. James Viola James Viola	81 Stearns Rd 02446	3

I/We certify that the above signatures are those of registered voters in the Town of Brookline.

# 10.A.

To the Town of Brookline and its Select Board:

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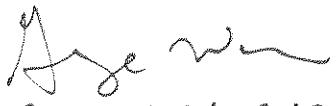
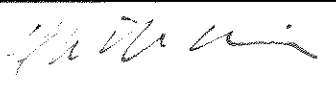

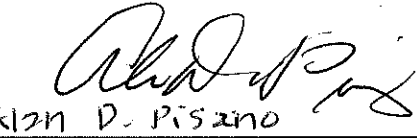
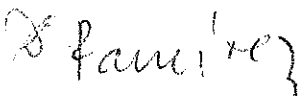


Signature:	Address:	Precinct:
1. LISA VIOLA <i>Lisa Viola</i>	79 STEARNS RD. 02446	3
2. Kathryn LINK <i>Kathryn Link</i>	60 Harrison St. 02446	3
3. <i>Marsha S Jones</i>	70 Francis 02446	3
4. <i>[Signature]</i> <i>Gary Jones</i>	70 Francis St	3
5.		
6.		
7.		
8.		
9.		
10.		

I/We certify that the above signatures are those of registered voters in the Town of Brookline.

# 10.A.

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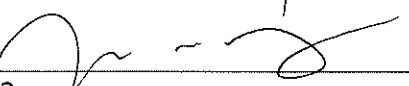
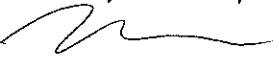
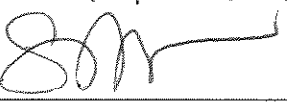
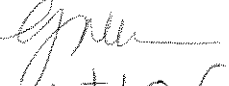
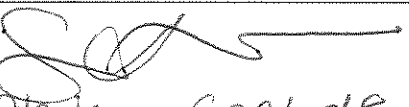
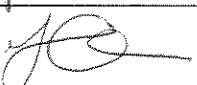
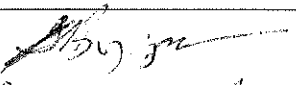
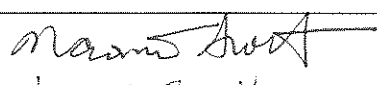
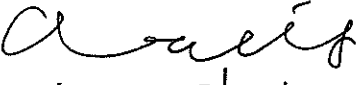
Signature:	Address:	Precinct:
1.  GEORGE WARNER	397 NEWTON ST	15
2.  ELIZABETH CUNNINGHAM	397 Newton Street	15
3.  KATHLEEN I. PISANO	361 Newton St	15
4.  ALVIN D. PISANO	361 Newton St	15
5. DANIELA PANIKER 	384 Newton St	15
6.  Annie Brun	376 Newton St.	15
7. Dor Rothman 	376 Newton St.	15
8.		
9.		
10.		

I/We certify that the above signatures are those of registered voters in the Town of Brookline.

# 10.A.

To the Town of Brookline and its Select Board:

The undersigned registered voters in the Town of Brookline hereby request that the Select Board hold a Special Town Meeting to vote on the Warrant Article included in this petition, which addresses FFF incentivization for the Emerald Isle Special District.

Signature:	Address:	Precinct:
1. Jesse Gray 	8 Griggs Ter	10
2. Kathryn Gray 	8 Griggs Ter	10
3. Stephanie Gaehde 	7 Griggs Terr	10
4. <del>Lilly Gaehde</del>	<del>7 Griggs Terr</del>	<del>10</del>
5.  Charlotte Gaehde	7 Griggs Terr	10
6.  Stephan Gaehde	7 Griggs Terr	10
7.  Lilly Gaehde	7 Griggs Ter	10
8.  Pushma-Boppa	12 Griggs Ter.	10
9.  Naomi Sweitzer	14 Griggs Terr	10
10.  Andrew Shalit	14 Griggs Ter	10

I/We certify that the above signatures are those of registered voters in the Town of Brookline.

21 MAR 4 AM 10:52

**ARTICLE \_\_\_\_\_, [Fossil Fuel Free (FFF) Incentivization via Special Permits]**

Jesse Gray (TMM, P10), Lisa Cunningham (TMM, P15), Kathleen Scanlon (TMM, P3), Werner Lohe (TMM, P13), Scott Englander (TMM, P6)

To see if the Town will adopt the following new zoning by-law, to be numbered appropriately:

**§ \_\_.01 Purpose**

This Zoning By-Law is adopted by the Town of Brookline, to protect the health and welfare of the inhabitants of the Town from air pollution, including greenhouse gas emissions that cause climate change and thereby threaten the Town and its inhabitants.

**§ \_\_.02 Definitions**

“New Building” is defined as a building not in existence on the effective date of this Article, for which a building permit application has been filed after the effective date of this Article.

“On-Site Fossil Fuel Infrastructure” is defined as fossil fuel piping or combustion facilities that are in a building, in connection with a building, or otherwise within the property lines of premises, including piping that extends from a supply source; provided, however, that “On-Site Fossil Fuel Infrastructure” shall not include:

- a. Fuel gas piping connecting a supply source to a meter or to the meter itself;
- b. Backup electrical generators, cooking appliances, portable propane appliances for outdoor cooking and heating, and related fuel piping.

“Significant Rehabilitation” is defined as a renovation project that requires a building permit, for which a building permit application has been filed after the effective date of this Article and that:

- a. For existing buildings regulated by the 9<sup>th</sup> Edition of the Massachusetts State Building Code 780 CMR 51.00, the Massachusetts Residential Code, includes the reconfiguration of space or building systems, in which the Work Area is more than 75% of the gross floor area as defined in the Zoning By-Law, prior to the project; or
- b. For existing buildings regulated by the 9<sup>th</sup> Edition of the Massachusetts State Building Code 780 CMR 34.00, the Massachusetts State Basic Commercial Code, includes the reconfiguration of space and/or building systems, in which the Work Area is more than 50% of the gross floor area, as defined by the Massachusetts Building Code, prior to the project.

“Work Area” is defined as the aggregate area of those portions of a building affected by renovations for the reconfiguration of space or building systems, including new floor area added as a result of renovation, as indicated in the drawings associated with a building permit

- b. The proposed New Building, Significant Rehabilitation or use involves the installation of On-Site Fossil Fuel Infrastructure or the continuation of any On-Site Fossil Fuel Infrastructure installed as part of a New Building, Significant Rehabilitation or use authorized by a special permit previously issued subject to this Article; provided, however, that either:
  - 1. Except where a special permit has previously been issued subject to this Article for a New Building, Significant Rehabilitation or use involving the installation or continuation of On-Site Fossil Fuel Infrastructure, the special permit shall be conditionally approved for a term not to exceed five years from the date of its first exercise or until January 1, 2030, whichever is later; or
  - 2. Where a special permit has previously been issued subject to this Article for a New Building, Significant Rehabilitation or use involving the installation or continuation of On-Site Fossil Fuel Infrastructure, the special permit shall be conditionally approved for a term not to exceed one year from the expiration of the term of the prior special permit if the Board of Appeals finds that the special permit will not be substantially inconsistent with the Town of Brookline's Climate Action Plan as adopted by the Climate Action Committee; or
  - 3. The special permit shall be approved on the condition that it is personal to the applicant and is non-transferrable, including by the transfer of stock or other ownership interest in a business organization or trust, except in the case of an owner's primary residence to an immediate family member or to a trust for which the owner or an immediate family member is the primary beneficiary.

and provided further that, at the applicant's request, the Board of Appeals may modify the special permit to run with the land in perpetuity, upon a finding that the applicant has removed, disconnected or otherwise permanently disabled any On-Site Fossil Fuel Infrastructure that was subject to this Article at the time the special permit was first granted.

#### §\_\_.05 Waivers

A waiver from the requirements of §\_\_.04 may be approved by the Board of Appeals, in its special permit decision, upon a finding:

- a. If supported by a detailed cost comparison provided by the applicant, that strict compliance with the requirements of §\_\_.04 would be financially infeasible, including after utilizing available rebates and credits, or otherwise impractical to implement; or
- b. That strict compliance with the requirements of §\_\_.04 would result in the loss of new affordable housing units eligible for inclusion in the Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory.

No modification of a special permit, the rights under which have previously been exercised, shall grant a waiver from the requirements of this Article. In considering any waiver request, the Board of Appeals shall evaluate whether particular portions of a project are financially infeasible or impractical to implement, or would result in the loss of new affordable housing units, and the Board of Appeals shall issue waivers narrowly for those portions, where appropriate, rather than for an entire project.

#### §\_\_.06 Notices

For a special permit granted subject to §\_\_.04(b), any notice that is required to be recorded pursuant to *M.G.L. c.40A*, §11, shall include a statement detailing the condition upon which the special permit was granted.

For all properties subject to a special permit conditioned on a time limitation pursuant to §\_\_.04(b)(1), the Building Commissioner shall provide notice to the owner of record of the expiration of said special permit and the requirement of compliance with this Article. Such notice shall be first provided not less than three (3) years prior to the expiration of such a special permit, and annually thereafter.

Or act on anything relative thereto.



application. Portions of a building where only repairs, refinishing or incidental work occur are excluded from the calculation of Work Area.

### §\_\_.03 Applicability

The requirements of this article shall apply to all special permit applications for New Buildings, Significant Rehabilitations proposed to be located in whole or in part within the Town or uses to be located within such New Buildings or Significant Rehabilitations, as well as to applications for the continuation of New Buildings, Significant Rehabilitations and uses authorized by a special permit previously issued subject to this Article, except as follows:

- a. The requirements of this article shall not apply to the piping, in buildings with floor areas of at least 10,000 square feet, required to produce potable or domestic hot water from centralized hot water systems if the Engineer of Record certifies that no commercially available electric hot water heater can meet the building's hot water demand for less than 150% of installation or operational costs, compared to a conventional fossil-fuel hot water system.
- b. The requirements of this article shall not apply to the extension or modification of heating systems via HVAC system modification, or modification of radiator, steam, or hot water piping if fossil fuel piping is not installed.
- c. The requirements of this article shall not apply to any building being constructed subject to a Waldo-Durgin Overlay District Special Permit, as described in Section 5.06.4.k, or a Fisher Hill Special Overlay District Special Permit, as described in Section 5.06.4.l.
- d. The requirements of this article shall not apply to such laboratories and medical facilities, subject to such conditions, as shall be specified from time to time by votes of Town Meeting.
- e. The requirements of this Article shall not apply to repairs or replacement of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.

### §\_\_.04 Climate Responsive Conditions for Approval of Special Permits

Except as otherwise provided in this Article, the Board of Appeals shall not approve any special permit application made pursuant to §§9.03, 9.04, 9.05, 9.08, or 9.10 unless the Board finds that one of the following conditions is met:

- a. Any proposed New Building, Significant Rehabilitation or use does not involve the installation of any new On-Site Fossil Fuel Infrastructure or the continuation of any On-Site Fossil Fuel Infrastructure installed as part of a New Building, Significant Rehabilitation or use authorized by a special permit previously issued subject to this Article;

## Explanation for Article XXX, Fossil Fuel Free (FFF) Incentivization via Special Permits

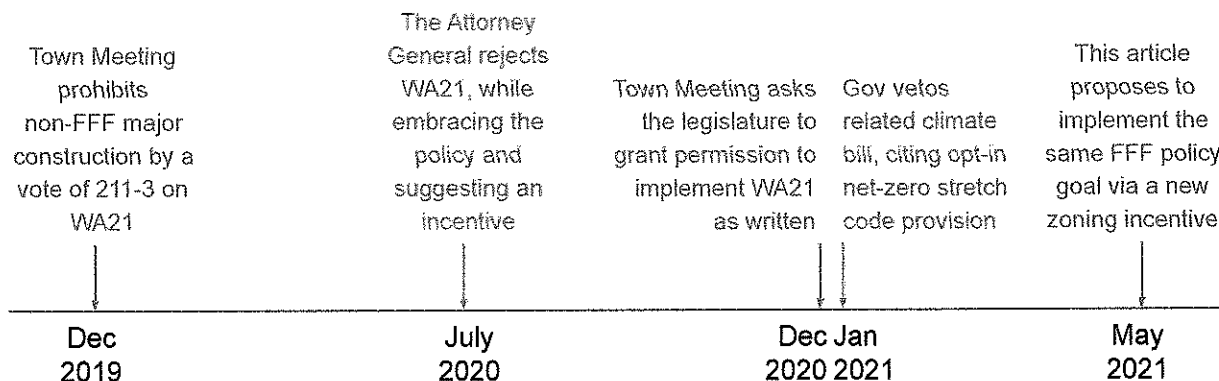
### Summary

This Article follows on the heels of *November 2019 Special Town Meeting's Warrant Article 21 (WA21)*, which was passed overwhelmingly. WA21's proposed general by-law aimed to prohibit the installation of new fossil fuel infrastructure in new construction and significant renovation projects. Regrettably, the Massachusetts Attorney General's Municipal Law Unit did not approve WA 21, citing conflicts with the State Building Code and natural gas legislation. She nonetheless embraced its policy goals and suggested that they might be implemented via an incentive. This Article does exactly that, providing an alternative means of implementing the same fossil fuel infrastructure reduction measures through the adoption of an incentive-based zoning by-law. By reworking the provisions of WA21 as a zoning by-law and modifying the means of implementation, this Article addresses the concerns about WA21 raised by the Attorney General.

This Article aims to limit the installation of new fossil fuel infrastructure in new construction and significant renovations through the existing special permitting process. Under this Article, a special permit for a project that includes new construction or significant renovations may be issued only if the proposal does not include new fossil fuel infrastructure or if the permit is made subject to conditions that will ensure the property will be converted to electric infrastructure in the future. These conditions may include expiration of the permit in 2030 or after five years—whichever comes later—or alternatively upon transfer of the property outside the family.

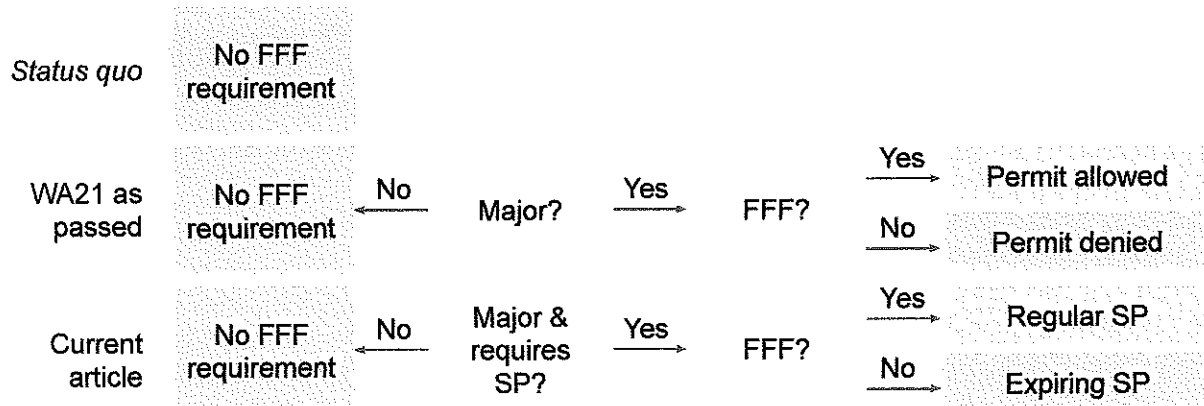
Upon the expiration of such a permit, the owner would be required to bring the property into zoning compliance by removing and replacing the fossil fuel infrastructure or the construction or use that triggered the special permit condition in the first place. This Article requires that property owners subject to an expiring special permit receive notice from the Town well in advance of the expiration date. The failure of an owner to bring the property into compliance after the expiration of a special permit may result in fines or other zoning enforcement at the discretion of the Building Commissioner and the Zoning Board of Appeals.

**Fig. 1. History of WA21 Fossil Fuel Free and related policy-making in MA**



EE:OTW > NW 12.

Fig. 2. Comparison of *status quo*, 2019-WA21 as passed, and this Article



This Article has incorporated many of the exemptions and provisions for waiver of its requirements that were previously approved in WA21. The purpose of this Article is to advance the goals of WA21, while incorporating the procedural elements harmoniously with the Town's Zoning By-Law and addressing the concerns previously highlighted by the Attorney General.

### Rationale

As a town, as a commonwealth, and as a nation we are not moving fast enough to reduce our carbon emissions. One of the easiest steps, as well as a necessary first step, is to stop installing brand new fossil fuel infrastructure that will pollute for decades to come. We agreed upon this policy goal as a town when we passed our original WA21 in November 2019 by a vote of 211-3.

The Attorney General's disallowal of WA21 highlighted how legacy laws at the state level enshrine a right to pollute and to emit greenhouse gases that imperil our collective future, making it impossible for Brookline, other municipalities, or the Commonwealth-at-large to begin to address our building emissions via simple Fossil Fuel Free (FFF) mandates (Fig. 1). Nevertheless, the Attorney General accompanied her disallowal with a suggestion that the Town develop incentives to encourage FFF construction. In the spirit of the Attorney General's suggestion, the current Article would create a reasonably strong incentive to build FFF.

### Differences between WA21 and the current article

This article is very similar to WA21 (Fig. 2). The essential differences between this Article and WA21 are changes deemed necessary to adapt what was a general by-law into the language and spirit of a zoning incentive by-law (Fig. 3):

*Same policy goals — already agreed upon by AC, Town Meeting, Town staff*

- Defines major construction in the same way, including new construction and major renovations

## 10.A.

- Same exemptions (with some clarifications and corrections, e.g., on labs)
- Same definition of major construction to trigger (75% for residential, 50% for commercial)

*Different implementation — as a zoning provision rather than a general statute*

- Applies only to special permit projects
- Exemptions processed through the Planning Board and Zoning Board of Appeals rather than an entirely new committee
- No building permit denial
- Choice of regular special permit (FFF) or expiring special permit (non-FFF)

### How the incentive works

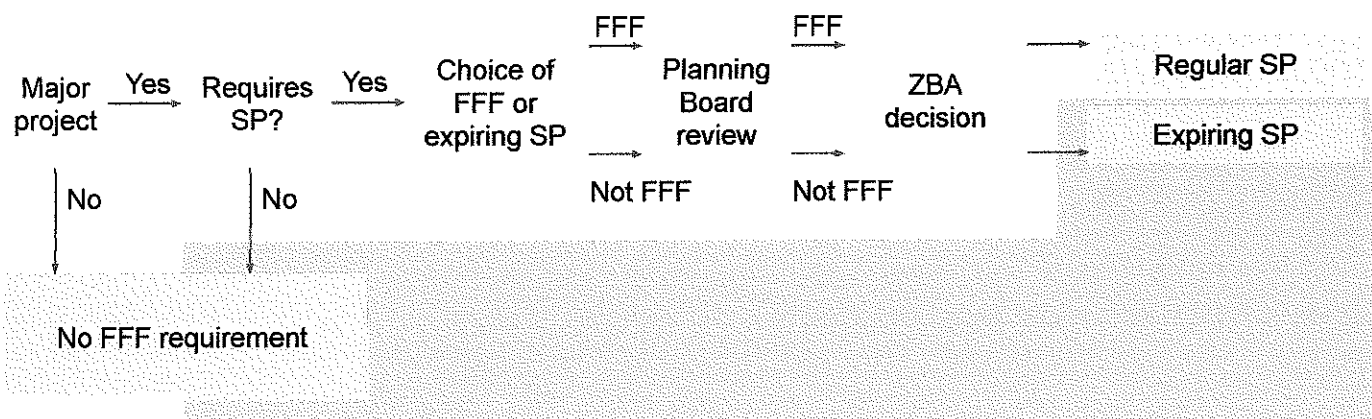
Special permits are used to seek zoning relief. Those who seek special permits for major construction projects (new construction and gut renovation) will have two options:

1. To choose a regular special permit and to build FFF (defined here as it was in WA21, with essentially the same exemptions and waivers)
2. To choose an expiring special permit and to build non-FFF (defined here as it was in WA21, with essentially the same exemptions and waivers)

Special permits for projects that are not FFF may be granted with the condition that they expire at the later of 2030, or after five years. As an alternative to setting an expiration date, the Board of Appeals may grant a special permit subject to this Article upon the condition that the permit is exclusive to the property owner and is non-transferable should the property be sold or transferred outside the family. This condition serves to create some flexibility for owner-occupied residences, but would require subsequent owners to convert the property from fossil fuel to electricity.

### What is an expiring special permit?

Fig. 3. This Article is less restrictive and has a more established review process than WA21 originally proposed



Less restrictive outcome  
compared to WA21

- We already have expiring permits in Brookline and across Massachusetts, e.g., special permits for businesses in residential districts are sometimes granted for five or ten years.
- Real estate transactions are conducted in full knowledge — this Article requires that expiring special permits be recorded in the Registry of Deeds.
- This Article requires that property owners be notified of an imminent expiration at least three years in advance and not less than annually afterward.
- If the fossil fuel infrastructure is removed, the Zoning Board of Appeals may be petitioned to make the special permit permanent

### **What happens when a special permit expires due to non-FFF equipment remaining in place?**

Upon the expiration of such a permit, the owner would be required to bring the property into zoning compliance by removing and replacing the fossil fuel infrastructure or the construction or use that triggered the special permit condition in the first place (Fig. 4). The failure of an owner to bring the property into compliance after the expiration of a special permit may result in fines or other zoning enforcement at the discretion of the Building Commissioner and the Zoning Board of Appeals.

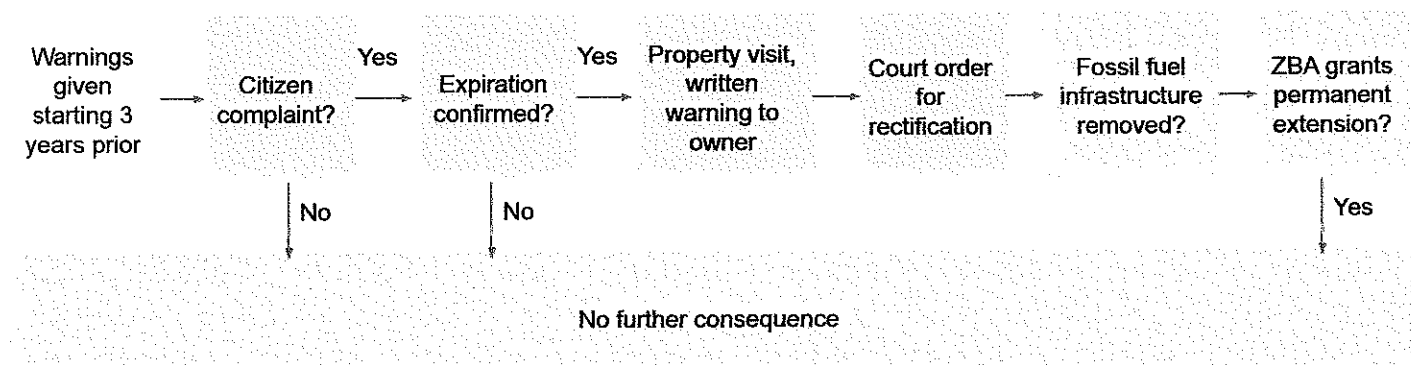
Property owners are protected under this Article from unexpected conversion costs in several ways:

- Property owners have the option to install FFF infrastructure when it's most practical, at the time of a major construction project.
- The conditions on these special permits must be recorded in the Registry of Deeds, so that real estate transactions are conducted with full knowledge.
- Property owners who are subject to an expiring special permit will receive notice from the Town well in advance of the expiration date.
- Property owners will have the option to petition the Zoning Board of Appeals for an extension of an expiring special permit.

### **Exemptions and Waivers**

With the goal of remaining true to the original negotiated policy objectives of A21, this Article has incorporated WA21's original exemptions, as well as a similar waiver process, albeit one that is adjudicated by the Zoning Board of Appeals (with the assistance of the Planning Board) rather than a

**Fig. 4. What happens when a special permit expires prior to removal of FFF infrastructure?**



new Sustainability Review Board as provided in WA21(Fig. 3).

If the applicant is proposing a non-FFF project and nonetheless seeking a permit to be granted in perpetuity, the applicant must provide a detailed cost analysis supporting the impracticality or financial infeasibility of FFF. As part of its review the Planning Board may if needed hire a consultant, at the applicant's expense, to review the practicality and financial feasibility of FFF (via a "53G" account).

### **Who drafted this Article**

The current article was professionally drafted by Ray Miyares, Ethan Dively, and Rian Rossetti in consultation with the petitioners.

Ray Miyares is a partner at Miyares and Harrington LLP, where he has served as lead Town Counsel for several Towns. He has decades of experience in municipal, energy and environmental law and has been named a Super Lawyer in the area of State, Local and Municipal Law for five consecutive years. He has also been designated one of Boston's Top-Rated Lawyers, and as a Top-Rated Lawyer nationally in Land Use and Zoning, as well as in Energy, Environment and Natural Resources, by ALM Legal Leaders.

Prior to founding Miyares and Harrington LLP in 1988, Ray was a partner at Bracken and Baram in Boston, New England's first environmental law firm. Ray was the principal drafter of the Water Management Act, M.G.L. c.21G, and assisted numerous public water suppliers with registration and permitting issues under that statute.

### **Legal authority**

WA21 was deemed to be in conflict with state law because it was a mandate that denied building permits to non-FFF projects. In contrast, this Article instead creates an incentive, which is similar to related incentives that encourage construction of LEED buildings (Acton, Brookline) and Passive House buildings (Somerville).

Specific legal authority for expiring special permits is specified in M.G.L. Chapter 40A:

Section 9. Zoning ordinances or by-laws shall provide for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law, and shall be subject to general or specific provisions set forth therein; and such *permits may also impose conditions, safeguards and limitations on **time** or use.*

In her rejection of WA21, the Attorney General wrote:

"If we were permitted to base our determination on policy considerations, we would approve the by-law."

"...even without the by-law... property owners may choose energy systems that do not rely on fossil fuels. And the Town may consider adopting incentive programs to nudge property owners in that direction."

**What requires a special permit?**

Special permits are approvals required for uses that meet certain criteria in our local zoning by-law. They are required for any project seeking zoning or parking relief, as well as any project requiring design review. The vast majority of special permits involve an attorney or architect, and usually both. Special permit review is required for, among other uses, attached dwellings in groups of three or more, multiple dwellings with four or more units on the premises, lodging hotels and houses, as well as many other residential and non-residential uses. Brookline's Zoning By-law section 5.09 also outlines the requirements for design review of "certain uses and structures which have a substantial impact upon the character of the Town and upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof."

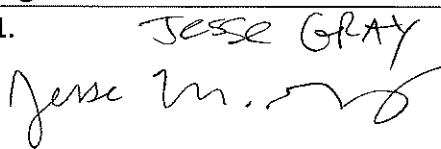
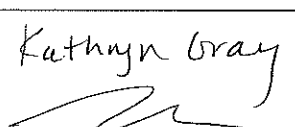
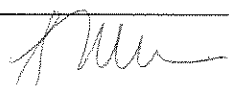
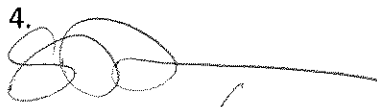

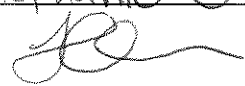
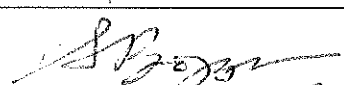
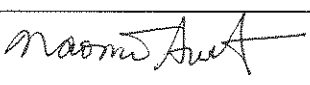
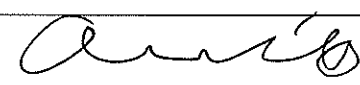
See: [https://www.brooklinema.gov/DocumentCenter/View/18858/ZoningBylaw\\_3142019](https://www.brooklinema.gov/DocumentCenter/View/18858/ZoningBylaw_3142019)

# 10.A.

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'21 MAR 4 10:34

The undersigned registered voters in the Town of Brookline hereby request that the Select Board hold a Special Town Meeting to vote on the Warrant Article included in this petition, which addresses FFF incentivization via Special Permits.

Signature:	Address:	Precinct:
1.  Jesse M. Gray	8 Griggs Ter	10
2.  Kathryn Gray	8 Griggs Ter	10
3.  Charlotte Gaehde	7 Griggs Ter	10
4.  Stephan Gaehde	7 Griggs Terr	10
5.  Stephanie Gaehde	7 Griggs Terr	10
6.  Lilly Gaehde	7 Griggs Ter	10
7.  Pushma Bopper	12 Griggs Ter	10
8.  Naomi Switzer	14 Griggs Terr	10
9.  Andres Shalit	14 Griggs Ter	10
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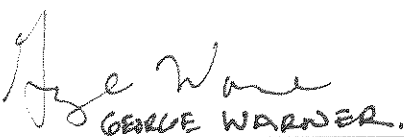



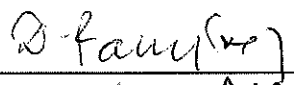
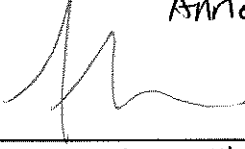



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21 MAR 4 PM 10:34

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Signature:	Address:	Precinct:
1.  GEORGE WARNER.	397 NEWTON ST.	15
2.  Elizabeth Cunningham	397 Newton St	15
3.  Kathleen I Pissano	361 Newton St.	15
4.  Alan D. Pissano	361 Newton St	15
5. DANIELA RANKEZ 	384 Newton St	15
6.  Annie Le Brun	376 Newton St	15
7. DOV ROTHMAN 	376 Newton St.	15
8.		
9.		
10.		

I/We certify that the above signatures are those of registered voters in the Town of Brookline.

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Signature:	Address:	Precinct:
1. Pat Scanlon	71 Francis St	3
2. Kathleen M. Sam	71 Francis St	3
3. Beate J. J.	71 Francis St.	3
4. [Signature]	63 Francis	3
5. Mary DeMott	90 Foxcroft	3
6. Baruffo	3 Lawrence Rd	3
7. [Signature] JIN SUK	3 Camera Rd	3
8. Mike Mosbacher [Signature]	79 Stearns Rd. 02446	3
9. LISA VIOLA Lisa Viola	79 STEARNS RD. 02446	3
10. Kathryn LINK [Signature]	60 Harnish St 02446	3

I/We certify that the above signatures are those of registered voters in the Town of Brookline.

## ARTICLE XX

Submitted by: Kathleen Scanlon, Michael Jacobs

Contact information:

kathleenmscanlon@gmail.com

mjacobs@mhjassociates.com

To see if the Town will authorize and empower the Select Board to file a petition with the General Court for special legislation as set forth below:

AN ACT RELATIVE TO BIDDING REQUIREMENTS FOR A CERTAIN AFFORDABLE HOUSING PROJECT IN THE TOWN OF BROOKLINE.

*Provided that the General Court may reasonably vary the form and substance of this requested legislation which shall be within the scope of the general public objectives of this petition, be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

SECTION 1. Construction and development activity related to redevelopment by the Brookline Housing Authority or by a limited liability company or limited partnership controlled by the Brookline Housing Authority of the federally-funded Colonel Eugene B. Floyd Apartments located at 32 Marion Street, Assessor's Parcel ID 167-19-00, in the Town of Brookline, or any part thereof, shall not be subject to any general or special law related to the procurement and award of contracts for the planning, design, construction management, construction, reconstruction, installation, demolition, maintenance or repair of buildings by a public agency, but shall be subject to sections 26 to 27H, inclusive, of chapter 149 of the General Laws. A conveyance of the project, whether by leasehold or fee estate, to an urban redevelopment corporation organized pursuant to chapter 121A of the General Laws or to a nonprofit state and federally tax-exempt corporation organized for the purpose of or to a limited partnership or limited liability company whose primary purpose is revitalizing the project, shall be subject to chapter 30B of the General Laws to the extent that the project is conveyed to an entity that is not owned, controlled or managed by the Brookline Housing Authority on the date of the conveyance.

SECTION 2. This act shall take effect upon its passage.

or act on anything relative thereto.

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Explanation:

At Brookline's June 2020 Special Town Meeting, there was overwhelmingly support for the designation of a \$6.525 million cash payment to the Brookline Affordable Housing Trust to be

allocated for the demolition of the obsolete 60-unit senior walk-up units at the Colonel Floyd Apartments and its replacement with 100+ new affordable units.

A first phase consisting of 115 units and a future potential second phase of 24 units is being submitted for approval to the Town, both of which are 100% affordable. Because the proposed development concept is requesting less parking than allowed by zoning and would ultimately have two buildings on one lot, a 40B path is being taken on a friendly basis.

A green building is being designed with the goal of achieving a Passive House standard. Buildings that meet Passive House standards use air sealing, highly efficient building envelopes, and specific HVAC system designs to reduce heating/cooling needs and drastically reduce energy consumption. Passive House Buildings can have heating/cooling energy savings up to 90% of typical buildings and up to 75% of new construction buildings<sup>1</sup>

Under state law, in addition to paying prevailing wages, the Brookline Housing Authority must utilize a system known as filed sub-bids.<sup>2</sup> This system results in inefficiencies which add costs as well as make it difficult to achieve the energy standards to which the BHA is committed.

Because of the cumbersome nature of the law, the pool of contractors who participate in bidding is limited. Many quality general contractors shy away from public bid projects because they cannot choose subcontractors with whom they have previously worked. The subcontractors who rely on this system also represent a limited universe. The limited pool reduces competition as well as the number of general and subcontractors who have completed Passive House projects.

On a filed bid project, work is extremely compartmentalized. There are limited divisions of work (e.g., electric, masonry, carpentry, etc.) on which a subcontractor bid. While on a non-filed sub-bid project, the general contractor ensures the complementary nature of the plans and specifications are met by the subcontractors, the filed sub-bid process works against this. There are two problems for a project such as Colonel Floyd.

Because Passive House is a performance-based standard, the General Contractor (GC) must own all of the work. Under Chapter 149, the individual subcontractors are only responsible for their components so there is no ability of the GC to easily integrate the work of the subs. In addition to serious coordination issues, the likelihood of disputes, time delays and increased construction costs become much greater. It has been estimated that filed sub-bids can add a premium of 20-30%.<sup>3</sup> With limited federal, state and town subsidies and a 100% low-income population, the project must stay within its budget.

We are thus proposing a home rule petition that would allow the legislation to grant the Brookline Housing Authority an exemption from Chapter 149 of the General Laws.

---

<sup>1</sup> Passive House Institute

<sup>2</sup> Chapter 149

<sup>3</sup> Cambridge Housing Authority Chapter 149 Prevailing vs. Boston Housing Authority Just Prevailing Wage

To the Town of Brookline and its Select Board:

The undersigned registered voters in the Town of Brookline hereby request that the Select Board hold a Special Town Meeting to vote on the Warrant Article included in this petition, which addresses an exemption to Chapter 149 Sub Bidding Requirements for the Col. Floyd Affordable Housing Project.

Signature:	Address:	Precinct:
1. Pat Scanlon	71 FRANCIS ST	3
2. Kathleen Scanlon	71 Francis St	3.
3. Bea Scanlon	71 Francis St	3
4. Pat Duggan	63 Francis St	3
5. Mary Dewant	90 FOXTEETH ST	3
6. Barb Stein	3 Lawrence Rd	3
7. Jin Suk	3 Lawrence Rd. #2	3
8. Mike Mosbrocker	79 Stearns Rd 02446	3
9. Donna Viola	81 STEARNS RD	3
10. Donna Viola	81 STEARNS RD	3

I/We certify that the above signatures are those of registered voters in the Town of Brookline.

# 10.A.

To the Town of Brookline and its Select Board:

The undersigned registered voters in the Town of Brookline hereby request that the Select Board hold a Special Town Meeting to vote on the Warrant Article included in this petition, which addresses an exemption to Chapter 149 Sub Bidding Requirements for the Col. Floyd Affordable Housing Project.

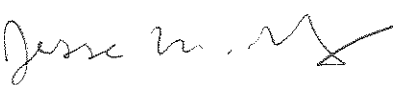







Signature:	Address:	Precinct:
1. LISA VIOLA Lisa A Viola	79 STEARNS RD. 02446	3
2. Kathryn LINK Kelle	60 Harrison St. 02446	3
3. Marshie S Jones	70 Francis St 02446	3
4. Gary Jones	70 Francis St	3
5.		
6.		
7.		
8.		
9.		
10.		

I/We certify that the above signatures are those of registered voters in the Town of Brookline.

# 10.A.

To the Town of Brookline and its Select Board:

The undersigned registered voters in the Town of Brookline hereby request that the Select Board hold a Special Town Meeting to vote on the Warrant Article included in this petition, which addresses an exemption to Chapter 149 Sub Bidding Requirements for the Col. Floyd Affordable Housing Project.

Signature:	Address:	Precinct:
1.  Jesse Gray	8 Griggs Ter	10
2.  Charlotte Gaehde	7 Griggs Terr	10
3.  Stephan Gaehde	7 Griggs	10
4.  Stephanie Gaehde	6 Griggs Terr	10
5.  Lilu Gaehde	1 Griggs Terr	10
6.  Pushma Dopper	12 Griggs Terr.	10
7.  Naomi Sweitzer	14 Griggs Terr	10
8.  Andrew Shalit	14 Griggs Ter	10
9.		
10.		

I/We certify that the above signatures are those of registered voters in the Town of Brookline.

21 MAR 4 AM 3:51

ARTICLE xx ARTICLE

Submitted by: Select Board

**PROPOSED TOWN MEETING WARRANT ARTICLE  
SPECIAL LEGISLATION FOR RACIAL EQUITY EXPENDITURES**

To see if the Town will authorize the Select Board to petition the Legislature for legislation authorizing the expenditure of \$500,000 from the Town's Marijuana Mitigation Stabilization Fund (consisting of funds derived from Host Community Agreement mitigation fees from licensed cannabis establishments) for the purpose of supporting projects, programs and initiatives that advance racial equity and racial justice within the Brookline community; provided, that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition:

AN ACT AUTHORIZING EXPENDITURE OF \$500,000 FROM TOWN OF BROOKLINE'S MARIJUANA MITIGATION STABILIZATION FUND FOR PURPOSE OF ADVANCING RACIAL EQUITY IN THE TOWN OF BROOKLINE

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding section 3 of chapter 94G of the General Laws, section 5B of chapter 40, section 53 of chapter 44 of the General Laws, or any other general or special law to the contrary, the Town of Brookline is authorized to spend \$500,000 from the Town's Marijuana Mitigation Stabilization Fund (consisting of funds derived from Host Community Agreement mitigation fees from licensed cannabis establishments) for the purpose of supporting projects, programs and initiatives that advance racial equity and racial justice within the Brookline community. Such monies shall be expended in conformity with Select Board regulations and/or such terms as the Select Board may specify.

SECTION 2. This act shall take effect upon its passage.

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is submitted as part of the Town's efforts to implement a Racial Equity Fund as contemplated by the non-binding resolution passed by Town Meeting in 2019. The concept at that time was to dedicate a certain percentage of excise taxes on non-medical



## 10.A.

May 19, 2021 Annual Town Meeting

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sales of cannabis and place it in a fund for expenditure to support education, training and other needs to advance economic opportunities in the cannabis and related industries for individuals from communities disproportionately harmed by cannabis prohibition. The Town Administrator has proposed to fund this plan by instead allocating \$500,000 of cannabis host community mitigation fees. The Town of Brookline secured substantial mitigation fees while bearing disproportionate and negative impacts from being host to the only adult use retail marijuana establishment in the Boston urban core for nearly one year. We believe the Town is thus in a unique position of petitioning the General Court for permission to use mitigation funds for this purpose notwithstanding the strict limitations imposed by Chapter 94G, the new law authorizing sales of cannabis. If passed, the Town will be able to expend \$500,000 from accrued host community mitigation fees for the purposed initially proposed in the Town Meeting Resolution and developed further by the Office of Diversity, Inclusion and Community Relations.

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21 MAR 3 PM 1:16

**Petitioner:** Planning & Community Development Department, Economic Development Division  
**Address:** 333 Washington Street, Brookline, MA 02445  
**Phone:** 617-264-6478  
**E-Mail:** mmooney@brooklinema.gov

## ARTICLE \_\_\_\_

To see if the Town will amend the General By-laws, Section 8.10.8 - Use of Sidewalks and Outdoor Premises, of Article 8.10 – Food Vendors License, as follows (additions are underlined and deletions appear in stricken text):

**ARTICLE 8.10  
FOOD VENDOR LICENSES**

**SECTION 8.10.8           USE OF SIDEWALKS AND OUTDOOR PREMISES**

The Select Board may, upon written application by a licensed Food Vendor, after notice and hearing, grant, upon such terms and conditions as ~~they~~ it determines to be necessary and desirable, ~~that a~~ a Licensed Food Vendor the right to use ~~the~~ an adjacent outdoor portion area as part of the licensed premises to accommodate outside seating for patrons. Such duly licensed outside seating areas may include and/or a portion of a town street or sidewalk area and/or a third party's property with acceptable proof of third-party consent. that is contiguous to the licensed premises for outside seating for patrons. Prior to such a grant, the Select Board shall seek advisory reports from the ~~Planning Board~~ Planning & Community Development Department, Building Commissioner, Police Department, Fire Department, Health Department, and Commissioner of Public Works, as the Select Board or designee may determine. ~~No such grant shall be for more than six months in any license year.~~ No such grant shall extend beyond the term of the license. Any right granted hereunder shall be subject to revocation if the exercise of the grant interferes with public safety and convenience.

Or act on anything relative thereto.

**EXPLANATION**

Due to the success of Brookline's temporary expanded outdoor dining program during the COVID-19 pandemic, the Town of Brookline is seeking to make year-round, expanded outdoor dining a permanent fixture of Brookline's commercial areas.

Expanded and year-round outdoor dining will bring added vibrancy and activity to Brookline's commercial areas, as well as provide an additional resource for Brookline restaurants, which have a long road to recovery ahead of them after the pandemic's devastating impact on the restaurant industry.

Two warrant articles, one proposing changes to the General By-Law and the other to the Zoning By-Law, which would allow for the creation of an expanded, year-round outdoor dining program, were submitted for Spring 2021 Town Meeting's consideration. This article proposes to make the following changes to the General By-Law:

- 1) **Extend the outdoor dining season by removing the 6-month maximum currently allowed for outdoor seating:** Outdoor dining is currently only allowed for a maximum of six months in Brookline. Removing this 6-month limitation on outdoor seating will give Brookline restaurants and patrons the flexibility to enjoy and benefit from outdoor dining year-round.
- 2) **Expand permissible outdoor dining areas by allowing outdoor seating in parking space parklets and privately-owned areas adjacent to restaurants:** The current by-law only permits outdoor seating on the public sidewalk (e.g. Publick House in Washington Square) or privately-owned outdoor areas contiguous to a restaurant (e.g. Taberna de Haro in St. Mary's or Barcelona in Washington Square). This article proposes to expand permissible outdoor seating areas to include public streets (i.e. COVID-era outdoor seating parking space parklets), as well as privately-owned areas (with the owner's permission) adjacent to a restaurant.
- 3) **Housekeeping revision to departmental advisory reports sought by the Select Board for outdoor seating approvals:** The Licensing Clerk currently seeks advisory reports from both the Fire and Health Departments regarding outdoor seating. This article proposes to formally add both the Fire and Health Departments to the list of recommended advisory reports, as well as streamline the outdoor seating application process by replacing Planning Board review with Planning and Community Development Department staff review.

21MAR3PM1:16

21 MAR 3 PM 1:17

**Petitioner:** Planning & Community Development Department, Economic Development Division  
**Address:** 333 Washington Street, Brookline, MA 02445  
**Phone:** 617-264-6478  
**E-Mail:** mmooney@brooklinema.gov

# ARTICLE \_\_\_\_

To see if the Town will amend the Brookline Zoning By-Laws, §4.04 Limitation of Area of Accessory Uses, §4.07 Table of Use Regulations of Article IV Use Regulations, and §6.02 Off-Street Parking Space Regulations of Article VI Vehicular Service Uses Requirements, as follows (proposed deletions appear in stricken text):

## ARTICLE IV USE REGULATIONS

### §4.04 – LIMITATION OF AREA OF ACCESSORY USES

1. No accessory use or uses within a building shall occupy more than a combined total of 25 per cent of the floor area of the principal building, other than required off-street parking.
2. No accessory use or uses not within a building shall occupy more than a combined total of 25 per cent of the unbuilt lot area, or of the required rear yard area, other than required off-street parking or outdoor seating for a licensed Food Vendor as defined in Article 8.10 of the Town's General By-Laws.
3. No accessory use shall occupy part of the required front or side yards, except off-street parking as required in M-1.0, M-1.5, M-2.0, and M-2.5 District.

### §4.07 – TABLE OF USE REGULATIONS

- 38C. Open-air use, other than commercial recreation facilities, ~~seasonal~~ outdoor seating for a ~~licensed Food Vendor as defined in Article 8.10 of the Town's General By-Laws that does not exceed six months in each calendar year, and Uses 22 to 28, inclusive, Use 38C shall include including but not be~~ limited to the sale of flowers, garden supplies, or agricultural produce.

## ARTICLE VI VEHICULAR SERVICE USES REQUIREMENTS

### §6.02 – OFF-STREET PARKING SPACE REGULATIONS

3. Places of Public Assembly shall include Uses 9, 12 to 14 inclusive, 16, 30, and 34, as listed in Article IV.
  - a. Where Places of Public Assembly are provided with benches rather than fixed individual seats, each 1.5 linear feet of bench shall equal one seat.

## 10.A.

- b. Where no fixed seats are used, each 20 square feet of public floor area shall equal one seat.
- c. Places of worship need not provide the requirements specified in this section.
- d. Bowling alleys shall provide two parking spaces for each alley.
- e. For recreational or social uses primarily designed for neighborhood or Town-wide activities and owned or operated by an agency of the Town, the Board of Appeals may by special permit modify the requirements of this section.
- f. For any place of public assembly that obtains a license for ~~seasonal~~ outdoor seating subject to **§8.10.8** of the Town's General Bylaw, the additional ~~seasonal~~-outdoor space shall be exempt from parking requirements.

Or act on anything relative thereto.

## EXPLANATION

Due to the success of Brookline's temporary expanded outdoor dining program during COVID-19, the Town of Brookline is seeking to make year-round, expanded outdoor dining a permanent fixture of Brookline's commercial areas.

Expanded and year-round outdoor dining will bring added vibrancy and activity to Brookline's commercial areas, as well as provide an additional resource for Brookline restaurants, which have a long road to recovery ahead of them after the pandemic's devastating impact on the restaurant industry.

Two warrant articles, one proposing changes to the General By-Law and the other to the Zoning By-Law, which would allow for the creation of an expanded, year-round outdoor dining program, were submitted for Spring 2021 Town Meeting's consideration.

This article proposes to eliminate references to the 6-month maximum for outdoor seating, which Brookline restaurants are currently restricted to, any reference to seasonal outdoor dining, as well as accommodate outdoor seating as an accessory use in the Zoning By-Law.

**ARTICLE XXX****Submitted by: Transportation Board**

*Voted, to authorize the Select Board to petition the Legislature to enact legislation authorizing the Town's Transportation Board to amend special speed regulations on Town public ways previously adopted pursuant to the authority of Mass. Gen. Laws ch. 90, § 18 and the implementing policies and procedures of the Massachusetts Department of Transportation, and replace them with the statutory speed regulations set forth in Mass. Gen. Laws ch. 90, §§ 17 and 17C, as applicable; provided, that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.*

**AN ACT AUTHORIZING THE TOWN OF BROOKLINE'S TRANSPORTATION BOARD TO REVOKE SPECIAL SPEED REGULATIONS PREVIOUSLY APPROVED IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAW CHAPTER 90, SECTION 18 ON ANY PUBLIC WAYS UNDER TOWN JURISDICTION AND RETURN THE WAY TO THE STATUTORY SPEED LIMIT ESTABLISHED UNDER MASSACHUSETTS GENERAL LAW CHAPTER 90, SECTIONS 17 AND 17C**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding section 18 of chapter 90 of the General Laws, 1974 Mass. Acts ch. 317 as amended or any other general or special law to the contrary, the Transportation Board of the Town of Brookline may, after holding a public hearing, vote to revoke any special speed regulation for a public way under the Town's jurisdiction that was previously approved by the Massachusetts Department of Transportation and posted in accordance with law and Massachusetts Department of Transportation policy and procedure. Upon revocation, said public way shall be subject to the statutory speed limits established by section 17 of chapter 90 of the General Laws and section 17C of chapter 90 of the General Laws, as applicable.

SECTION 2. This act shall take effect upon its passage.

In May 2017, Town Meeting voted overwhelmingly to accept the provisions of Chapter 90, Section 17C and grant the Transportation Board, following a public hearing, the authority to enact a 25 mph statutory speed limit on all public ways under Town jurisdiction within thickly settled or business districts. In October 2017, following a public hearing, the Transportation Board enacted a town-wide 25 mph statutory speed limit. The statutory speed limit is for all public ways under Town jurisdiction where a posted speed limit does not exist. The DPW, in accordance with the Massachusetts Amended MUTCD, installed the required signage at all town boundaries notifying motorists of this townwide speed limit. The “default” speed limit throughout town is now 25 mph.

However, there is a set of streets, including segments of residential streets such as Aspinwall Avenue, High Street, and Woodland Road where speed limits remain higher. This is due to a peculiarity of state law that says that when the speed limit on a street has been posted at a higher limit than the Town’s default speed limit, that speed limit can only be reduced after an extensive, expensive, and cumbersome process. To establish a new speed limit in compliance with Chapter 90, Section 18, town staff must conduct a multistep speed study in accordance with the MassDOT “Procedures for Speed Zoning on State Highways and Municipal Roads” manual to determine the appropriate and allowable speed limit based on the 85<sup>th</sup> percentile rule, receive a positive vote from the Transportation Board for a petition seeking approval from MassDOT to post the speed limit, and then submit the request to the Massachusetts Department of Transportation for permission to post. This is a time-consuming process that restricts the Transportation Board and Town staff’s ability to respond to the needs of our residents by taking time sensitive action to increase the safety of motor vehicle drivers, cyclists, and pedestrians in these areas.

The result is that while Town Meeting overwhelmingly supported a 25 mph default speed limit, many local, neighborhood streets remain posted for 30 mph or more. Because current state law made a reduction in the speed limit difficult to achieve, for several legislative sessions, the Transportation Board had joined with other local authorities and advocacy groups throughout the state to lobby in favor of various proposals to amend Chapter 90, Section 17 and reduce the statutory speed limit in these areas to 25 mph. On August 9, 2016, the Governor signed House No. 4565, inserting into Chapter 90 of the Massachusetts General Laws the above-quoted local option law as a new Section 17C. The new provision provided the ability to local authorities to either establish and post a statutory speed limit of 25 miles per hour on specified roadways within thickly settled residential areas or business districts OR establish and post a speed limit of 25 miles per hour Town-wide on all thickly settled residential areas or business districts without having to comply with the provisions of Chapter 90, Section 18. The second option required signage being posted at the Town boundaries.

As discussed earlier, in addition to MGL Chapter 90, Section 17 & 17C that determines statutory speed limits, MGL Chapter 90, Section 18 regulates the posting of approved speed limits in accordance with the MassDOT’s procedures. These procedures are largely based on the premise that the 85<sup>th</sup> percentile speed, the observed speed that 85% of free flowing drivers (those in front of the pack of cars) on the street are operating at or below, is the safe operational speed for the street as determined by those operating on it. Essentially, traffic engineers measuring the speeds of 100 random drivers on a roadway, in ideal weather conditions and no traffic, establishes the speed of the 15<sup>th</sup>-fastest driver as the posted speed limit. The result is that many of the posted speed limits throughout the Town are 30 mph or above.

At the request of the Transportation Board and several residents, staff inquired with MassDOT District 6 Traffic and Permitting offices what the process is to remove a posted speed limit, in excess of



25 mph, that were posted in accordance with MGL Chapter 90, Section 18. Their response was that there is no process developed to remove a posted speed limit and return it to the now lower statutory speed limit and they did not anticipate allowing such a process without legislative action. This continued reliance on the 85th percentile speed as the reasonable determining factor ignores a 2017 National Transportation Safety Board's (NTSB) report recommending "a sweeping overhaul of how speed is managed on U.S. streets, from the way speed limits are set, to how enforcement is carried out". This recommendation is based on the fact that in excess of 10,000 people are killed in speed-related collisions each year, on par with alcohol-related crashes. In response to this recommendation, the National Association of City Transportation Officials (NACTO) released "City Limits – Setting Safe Speed Limits on City Streets". These new guidelines give users a context-sensitive method to establish safe speed limits on urban streets. According to NACTO "City Limits provides a consistent, rational, scalable approach to urban speed limit setting, from citywide strategies to corridor-by-corridor methods based on easy-to-study street characteristics." However, the Town is not able to utilize these updated principals because MGL Chapter 90, Section 18's requirement that the Town comply with MassDOT's procedures that are based on the 85th percentile rule.

In addition to the reasoning for establishing lower speed limits as it relates to operating speeds and safety, a second reason why the Board is requesting this authority is in recognition of the fact these speed limits have traditionally informed how traffic engineers design roadway projects. Highway engineers traditionally measured the prevailing speed on a road, rounded up to the next multiple of 5 mph, and then designed the road for that speed, assuming that it was safe. This higher design speed meant wider shoulders, wider travel lanes, and larger radii allowing for turning vehicles to make movements without decelerating. These characteristics are not in line with the complete streets, walkability, and bikeability priorities of the Town. Recent research and design practices now focus on using the street design to influence drivers to choose a speed appropriate for the neighborhood. This speed has been called the "target speed," and is ideally equal to the speed limit. By having higher posted speed limits we are creating the expectation that it is acceptable to design our roadways to accommodate a higher targeted speed. Instead, we would prefer having the target speed as the lower 25mph speed limit so we appropriately design the streets to achieve our stated safety and mobility goals that prioritize safety and efficiency of alternative modes including walking, biking, and micro-mobility.

Over the last two years, Town staff have been working with Representative Vitolo's office to attempt to allow for this, short of legislative action. However, these efforts have been unsuccessful. Representative Vitolo's office, after consulting with House leadership, recommended that the Town submit a home rule petition to allow the Board to take this action.

#### **Background on vehicles speeds:**

Motor vehicle crashes have become the leading cause of unintentional injury deaths in the United States, killing over 30,000 people in 2010 alone. Many public health professionals have recently studied the correlation between motor vehicle speeds and death rates in order to highlight the danger this poses to the public. Several studies have demonstrated that the risk of death to a pedestrian struck by an automobile traveling at 20 mph is 6%. This increases to 19% at 30 mph (3 time greater than the risk at 20 mph) and further jumps to 65% (11 times the greater than the risk at 20 mph) for motor vehicles traveling at 45 mph. Furthermore these studies have shown that multiple factors contribute to the problem of unsafe traffic speed including roadway designs that encourage higher speeds, speed limits that are set too high, and speeding (people driving faster than the speed limit or too fast for road conditions) and have concluded that small traffic speed reductions can lead to fewer motor vehicle

crashes, injuries, and deaths. In fact, in 2014, a study by the Metropolitan Area Planning Council and the Massachusetts Department of Public Health predicted that lowering the default speed limit on local roads from 30 to 25 miles per hour could prevent about 18 fatalities and 1,200 serious injuries each year in Massachusetts, as well as save about \$62 million annually.

The Brookline Police Department recorded the following crash data in its 2019 annual report:

- 1270 reported crashes
- 52 Motor Vehicle vs Pedestrian
- 36 Motor Vehicle vs Pedestrian with injury
- 47 Motor Vehicle vs Bike
- 17 Motor Vehicle vs Bike with Injury

Slower speed limits is one tool to help reduce these numbers.

In recognition of the danger speeding vehicles pose to all roadway users, and in support of the Board's goal to create a multi-modal transportation network that encourages safe alternatives including walking and cycling for commuting and recreational purposes, the Transportation Board has implemented a Traffic Calming Policy and overseen several neighborhood traffic calming projects to increase safety and reduce motor vehicle speed. Since 1999 this has resulted in the installation of traffic calming devices including roadway narrowing, raised crosswalks, raised intersections, speed humps, neighborhood traffic circles, curb extensions, chicanes, enhanced crosswalk signage, rectangular rapid flashing beacons, and pavement markings throughout the Town.

Passage of this law would be an additional step toward making Brookline's streets safer for all.

Related links:

MGL Chapter 90, Section 17

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90/Section17A>

MGL Chapter 90, Section 17C

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90/Section17C>

MGL Chapter 90, Section 18

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90/Section18>

MassDOT "Procedures for Speed Zoning on State and Municipal Roadways"

<https://www.mass.gov/doc/procedures-for-speed-zoning-on-state-and-municipal-roadways/download>

NACTO "City Limits - Setting Safe Speed Limits on Urban Streets"

<https://nacto.org/safespeeds/>

NTSB "Reducing Speeding-Related Crashes Involving Passenger Vehicles"

<https://nacto.org/2017/08/15/federal-study-concludes-us-must-curb-speed/>

<https://www.nts.gov/safety/safety-studies/Documents/SS1701.pdf>

Brookline Police Department 2019 Year End Review

<https://www.brooklinepolice.com/DocumentCenter/View/1148/2019-Year-End-Report-FINAL?bidId=>

ARTICLE xX ARTICLE

Submitted by: Select Board

To see if the Town will amend its General By-Laws by adding a new section XXX as follows:

COMMUNITY PRESERVATION COMMITTEE

Section 1. Establishment and Membership

- a. There is hereby established a Community Preservation Committee consisting of nine (9) members. The membership shall be composed of one member of the Conservation Commission as designated by such Commission, one member of the Preservation Commission as designated by such Commission, one member of the Planning Board as designated by such Board, one member of the Park and Recreation Commission as designated by such Commission, one member of the Brookline Housing Authority as designated by such authority, and four (4) at-large members appointed by the Select Board.
- b. At-large members shall be appointed to the following initial terms: One (1) for a one-year term, two (2) for two-year terms, and one (1) for a three-year term. All subsequent terms shall be for three years. All other members shall serve a term determined by their designating bodies not to exceed three years. All members, at-large and otherwise, are eligible for reappointment. Should any appointing or designating authority fail to appoint a successor to a CPC member whose term is expiring, such member may continue to serve until the relevant authority names a successor.
- c. A vacancy of the committee shall be filled by the relevant appointing or designating authority.

Section 2. Duties and Responsibilities

- a. The Community Preservation Committee shall have all of the duties and powers set forth in G.L. c. 44B §5, including, but not limited to, the following: The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Select Board, Conservation Commission, the Preservation Commission, The Planning Board, the Park and Recreation Commission, the Council on Aging, the Housing Authority, and the Advisory Committee. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities, and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and

May 19, 2021 Annual Town Meeting

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published for each of two weeks preceding the hearing in a newspaper of general circulation in the Town.

- b. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation, and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation, and support of community housing; and for rehabilitation or restoration of such open space and community housing that is acquired or created with CPA funds. With respect to community housing, the Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. The Committee's recommendations to Town Meeting shall be subject to G.L. c. 44B, s. 5(b)(2) and shall include their anticipated costs.
- c. The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose, or to set aside for later spending funds for general purposes that are consistent with community preservation.
- d. Prior to making its final recommendations to Town Meeting for approval, the Committee shall present draft recommendations to the Select Board and the Advisory Committee for comment. A designated member of the Select Board and the Advisory Committee may serve as liaisons to the Committee.

### Section 3. Administration and Operation

- a. The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum.
- b. The Community Preservation Committee shall approve its actions by majority vote of the quorum.
- c. Each fiscal year, the Committee shall recommend to Town Meeting an operational and administrative budget. The timing of such budget recommendation shall be coordinated with the Town Administrator's annual operating budget submission to the Select Board.

### Section 4. Amendments

The Community Preservation Committee shall, from time to time, review the administration of this by-law and make recommendations, as needed, for amendments to the by-law and the Committee's administrative practices to improve its operations.

#### Section 5. Construction and Severability

At all times this by-law shall be interpreted in a manner consistent with G.L. c. 44B, the Community Preservation Act. Should any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.

#### Section 6. Effective Date

This Bylaw shall take effect immediately upon approval by the Attorney General of the Commonwealth. Each appointing authority shall have forty five (45) calendar days after approval by the Attorney General to make their initial appointments.

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#### PETITIONER'S ARTICLE DESCRIPTION

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'21 MAR 3 PM 1:42

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK**Public Notification and Public Comment on the Uses of Emergency, Disaster or Stimulus Funds Not Appropriated Through Town Meeting**

2021 MAR -3 P 1:56

Submitted by:

- Naomi Sweitzer, TMM 10 (Corresponding petitioner), 14 Griggs Terrace, [justicedoit@yahoo.com](mailto:justicedoit@yahoo.com)
- Hadassha Margolis, TMM 8, 24 Stedman Street, [Hadassah.margolis@gmail.com](mailto:Hadassah.margolis@gmail.com)
- Danny Stone, TMM 10, 22 Fairbanks Street, #22, [dsdistone@gmail.com](mailto:dsdistone@gmail.com)
- Jonathan Klein, TMM 10, 150 Saint Paul Street, #406, [klein728@gmail.com](mailto:klein728@gmail.com)

To see if the Town will adopt the following as a new Article 4.10 of the Town By-laws:

**ARTICLE 4.10****Emergency, Disaster and Stimulus Funds****SECTION 4.10.1 Definitions**

As used herein, "Emergency funds" refer to government monies made available to communities that have experienced an emergency. An emergency is a sudden, unforeseen happening requiring action to protect lives or property.

As used herein, "Disaster funds" refer to government monies made available to communities that have experienced losses due to disasters. A disaster refers to a sudden, calamitous event that seriously disrupts the functioning of a community or society and causes human, material, and economic or environmental losses that exceed the community's or society's ability to cope using its own resources. Disasters can mean both human-made and natural catastrophes.

As used herein, "Stimulus funds" refer to government monies made available to communities that are designed to generate or increase economic activity.

As used herein, "Information for the public on the fund" refers to the name of the fund, the name of the government funding source, the allowable uses of the fund and if the Town has any discretion on uses, the amount the Town of Brookline is eligible for, any obligation and expenditure deadlines, and if the Town of Brookline intends to seek or apply for the funds and web links to the statutory and regulatory requirements governing the funds.

**SECTION 4.10.2 Public Disclosure of Emergency, Disaster or Stimulus Funds**

The Town of Brookline shall in the event of being eligible for emergency, disaster or stimulus funds from the federal, state, or county government or a combination thereof:

- 1) Within 10 business days of the funding eligibility announcement, post on the Town's website the Information for the public on the fund.

- 2) Within 10 business days of the funding eligibility announcement, send a notification via email or other means containing the Information for the public on the funds above to the following groups: Town Meeting Members, the Moderator, the Advisory Committee, the Select Board, the School Committee, and if applicable to them, the Housing Authority Board and the Library Trustees. The Town will send the same notification to any Select Board or Moderator Committees or Commissions where the allowable funding uses are applicable to them or the funding is flexible and not fully defined. The Town will include in the emails where on the Town website the Information for the public on the fund can be found and the contact Information of the Town employee who can answer questions about the fund.

#### SECTION 4.10.3 Reporting to the Public on Emergency, Disaster or Stimulus Funds

- 1) On a quarterly basis by April 15, July 15, Oct 15 and Jan 15, the Town will post a report on the Town website listing the Information for the public on the fund. The report will include a table on how the funds have been obligated and expended by Town Departments and provide specific line-item detail on how the funds were obligated and expended including dollar amounts (for example: "Department of Public Health, Staffing, 2 Full Time Equivalent Nurses" or "Department of Public Works, Supplies, Personal Protective Equipment").
- 2) Within one month of all funds being expended, a final report similar to the quarterly reports will be posted on the Town website and notification via email or other means will be provided to: Town Meeting Members, the Moderator, the Advisory Committee, the Select Board, the School Committee, and if applicable to them, the Housing Authority Board and the Library Trustees. The Town will send the same notification to any Select Board or Moderator Committees or Commissions where the allowable funding uses are applicable to them or the funding is flexible and not fully defined.
- 3) For any emergency, disaster or stimulus funds related to the COVID-19 disaster and emergency that have already been received by the Town, even if they have already been completely expended, the Town shall post a report on the Town website listing the Information for the public on the fund. The report will include an easy-to-read table on how the funds have been obligated and expended to date by Town Departments and providing specific line-item detail on how the funds were obligated and expended. This report shall be posted within 30 days after the adjournment of the Annual Town Meeting. After that initial report is posted, if there are funds remaining, the Town shall follow a quarterly reporting schedule as listed above.

#### SECTION 4.10.4 Public's Right to be Heard on Use of Emergency, Disaster and Stimulus Funds

## 10.A.

For emergency, disaster or stimulus funds that provide the Town with some or full flexibility in how the funds are spent, within 30 days after 30% of the funds have been obligated, the Select Board and Advisory Committee will hold a joint public hearing to receive public comment on how the funds are spent. If a quarterly report has not been issued prior to the public hearing, the Town will post a report similar to the quarterly report on the Town website, five business days prior to the hearing.

or act on anything relative thereto.



10.A.

21MAR3PM1:42

## Warrant Article signature page

SIGNATURES (Ten registered voters required)

The following registered Brookline voters support the attached submitted article.

Signature	Print Name	Address
✓ 1.	Andrew Shalit	14 Griggs Terrace
✓ 2.	Naomi Sweetzer	14 Griggs Terrace
✓ 3.	Ariel Maddocks	104 Griggs Rd
✓ 4.	HELEN F. SUSTAN	15 Griggs Ter
✓ 5.	Ethan B. Colton	15 Griggs Ter
✓ 6.	Bonnie Bastien	32 Oakland Rd
✓ 7.	Deborah Brown	26 Parkman
✓ 8.	Anne Greenwood	6 Gibbs St.
✓ 9.	ELEANOR M. CLARKSON	1131 Beacon St. #604
✓ 10.	STEFFI GAEHDE	7 GRIGGS TERR
✓ 11.	J. Guillard	1443 Beacon St
✓ 12.	David Cotney	79 University Rd.
✓ 13.	Jennifer Roberts	1440 Beacon St. #8/6
✓ 14.	Charlotte Gaehde	7 Griggs Terrace
✓ 15.	KEN HERTZ	12 Griggs Terrace
✓ 16.	Daniel Stone	22 Fairbanks St. #4
✓ 17.	HADASSAH MARGOUS	24 Stedman St apt 8
✓ 18.	Jonathan Klein	150 St. Paul St #406 P10
19.		
20.		
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ZIMMERMAN

## 10.A.

We certify that the above (18) signatures are those of voters registered in the Town of Brookline.

## BROOKLINE TOWN MEETING, MAY, 2021

ARTICLE oOTH ARTICLE

Submitted by: Paul Harris, TMM-9; Nathan Shpritz, TMM-16; Jane Gilman, TMM-3; Bob Weintraub, TMM-9; Deborah Brown, TMM-1; Bob Miller, TMM-8; Linda Olson Pehlke, TMM-2; Werner Lohe, TMM-13

To see if the Town will adopt the following Resolution:

1. WHEREAS, the Town of Brookline has historically been a *lighthouse community* in our nation, with a reputation for responding with creativity and innovation to a broad range of local, national, and global challenges — in climate action, education, housing, preservation, and engaged governance;

2. WHEREAS, the COVID-19 pandemic has produced the dual financial challenges of reduced Town of Brookline revenue and significant increased need; it also presents an opportunity to create a 21st Century Vision of Brookline in a Global Context supported by Town of Brookline staff, community volunteers, and people of means who find fulfillment providing financial support to their home community;

3. WHEREAS, The Town of Brookline has immediate needs not included in the current budget to serve the less-privileged among us, especially in the context of COVID-19, for nutritious food, urgent affordable housing repairs, access to reliable and affordable *wifi* services, emotional and physical safety and wellness, including additional social workers in the public schools, *Innovation Funds* in the K-8 schools that can address equity issues, technology-vocational training, and educational support;

4. WHEREAS, in addition to addressing immediate needs, the Town of Brookline requires long-term resources, including for comprehensive planning and zoning, to develop and realize a 21st Century Vision of Brookline in a Global Context, that will:

- a. Provide necessary support so that all Brookline residents, including the elderly, disabled, and disadvantaged, have food, safe housing, and basic services
- b. Address racial justice and equity issues
- c. Lead the transition from fossil fuel energy to renewable electricity for Town facilities and throughout Brookline to support a sustainable future for the world
- d. Engage elders as wise counselors and inspiring mentors for younger generations
- e. Provide guidance and support to meet the physical, mental, emotional, and social wellness needs of students in the Public Schools of Brookline
- f. Advocate for improvements in state and national policies to better meet local needs

5. WHEREAS, many employees of the Town of Brookline cannot afford to live in Brookline, and a Town program providing affordable housing for Town employees who want to live in Brookline could benefit the entire Brookline community;

6. WHEREAS, tax policy in the United States and in Massachusetts has skewed LESS progressive since the 1970's, with real hourly wages stagnant and the social safety net weakened, leading to growing income and wealth gaps, and those most fortunate among us now have the means to make a greater contribution to the public good of the town;

7. WHEREAS, In 2020, the wealthiest 1.13% of U.S. households had a net worth above \$10 million;

8. WHEREAS, an annual household voluntary contribution to help realize a 21st Century Vision of Brookline in a Global Context of 1% of total net worth above \$10 million would be of significant value to our community;

9. WHEREAS, The Town of Brookline has a Payment in Lieu of Tax (PILOT) Policy and receives voluntary contributions from tax-exempt property owners;

NOW, THEREFORE, BE IT RESOLVED that Brookline Town Meeting calls upon the Select Board to (i) adopt a Payment in Addition to Tax (PIATT) Program recommended by a Select Board appointed committee charged with developing rules and regulations for disbursement of funds received; and (ii) encourage contributing Brookline households to make annual voluntary contributions to the Town of Brookline with a suggested guideline of 1% of household net worth above \$10 million, or such other amount as Town Meeting may recommend, pursuant to and under Massachusetts General Laws, Chapter 44, Section 53A; with these contributions to be used exclusively for public purposes and therefore be considered tax-deductible under Section 170(c)(1) of the Internal Revenue Code; and (iii) consider a similar program for businesses and others

Or act on anything relative thereto.

## BROOKLINE TOWN MEETING, MAY, 2021

## STATEMENT OF EXPLANATION

ARTICLE 6

Submitted by: Paul Harris, Nathan Shpritz, Jane Gilman, Bob Weintraub, Deborah Brown, Bob Miller, Linda Olson Pehlke, Werner Lohe

In this time of national crisis, Brookline can call upon its history of innovation and leadership in creating local solutions to national and global policy challenges. Brookline has pioneered in addressing the climate crisis through organizations such as Climate Action Brookline, the Select Board's Climate Action Committee, and the Green Caucus; measures such as eliminating the use of Styrofoam and single-use plastic water bottles and bags, encouraging solar rooftops and fossil-fuel-free new construction, and implementing a green electricity program that makes it easy for homeowners and businesses to purchase 100% renewable electricity. Brookline High School launched the African American and Latinx Scholars Program (AALSP), the Calculus Project, and School within a School (SWS); and Brookline created the Brookline Early Education Program (BEEP) and Facing History and Ourselves.

This warrant article calls upon the Select Board to build on this record by adopting a program that encourages Brookline households with high net worth to make annual voluntary tax-deductible contributions to the Town of Brookline. Brookline does not have a large commercial tax base nor a large number of residential taxpayers relative to the number of students in the public schools. Brookline does have high net worth households. In 2019, the median price for a single-family home sold in Brookline was over \$2.1 million, the highest median price in Greater Boston<sup>1</sup>. Brookline also has a well educated population, with 84% of the adult population having at least a bachelor's degree, and 14% of Brookline adults having a doctorate, the highest percentage in the country.

Brookline 2019 Demographics<sup>2</sup>

<b>Race</b>	<b>Population</b>	<b>% of Population</b>	<b>Poverty</b>	<b>% in Poverty</b>
Total	59,180	100%	7,250	12%
Asian	10,258	17%	1,913	19%
Black	1,746	3%	569	32%
Latinx	4,012	7%	752	19%
Multirace/Other	2,896	5%	574	20%
White	40,268	68%	3,442	9%

This warrant article seeks to enhance ways the Town helps less advantaged households, including disadvantaged seniors and disabled individuals, to receive more of the services and care our more advantaged households have. This includes nutritious food, housing and timely housing repairs, reliable and affordable wifi services, and youth employment. Within the Public Schools of Brookline, it includes tutoring; greater access to social workers; guidance counselors to help with college applications, financial aid documents, and overnight arrangements for college visits; and after-school, weekend, and summer enrichment. Funds received can also be used to address issues such as racial equity and climate change.

<sup>1</sup> <https://www.bostonmagazine.com/property/single-family-home-prices/>

<sup>2</sup> <https://worldpopulationreview.com/us-cities/brookline-ma-population>

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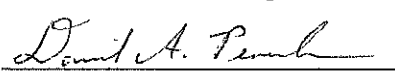
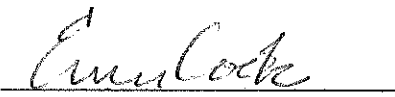


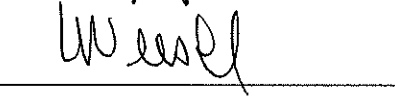
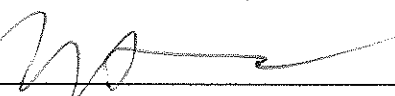
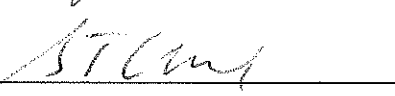
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## BROOKLINE TOWN MEETING, MAY, 2021

## PAYMENT IN ADDITION TO TAX (PIATT) WARRANT ARTICLE

## SIGNATURES

We the undersigned are registered voters of the Town of Brookline who support the Payment in Addition to Tax (PIATT) Warrant Article for the May, 2021 Brookline Town Meeting:

	Printed Name	Signature	Date	Precinct
✓ 1.	Neil Gordon		2/17/21	1
✓ 2.	Karen Livingston		2/17/21	10
✓ 3.	David A. Penman		2/17/21	15
✓ 4.	Ernest Cook		2/18/21	1
✓ 5.	JOHN BASSETT		2/18/21	6
✓ 6.	Nathan Shapiro		2/18/2021	16
✓ 7.	Laura Wessel		2/18/2021	1
✓ 8.	A. SHAKOSBOM		2/19/21	12
✓ 9.	Sarah Axelrod		2/21/21	4
10.				
11.				
12.				
13.				
14.				



1. The following information is being provided to you for your information only. It is not intended to be used for any other purpose.

2. The following information is being provided to you for your information only. It is not intended to be used for any other purpose.

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## BROOKLINE TOWN MEETING, MAY, 2021

## PAYMENT IN ADDITION TO TAX (PIATT) WARRANT ARTICLE

## SIGNATURES

We the undersigned are registered voters of the Town of Brookline who support the Payment in Addition to Tax (PIATT) Warrant Article for the May, 2021 Brookline Town Meeting:

	Printed Name	Signature	Date	Precinct
✓ 1.	Paul Harris	Paul Harris	2/15/21	9
✓ 2.	Mary Harris	Mary Harris	2/15/21	9
✓ 3.	Chobee Hoy	Chobee Hoy	2/18/21	8
✓ 4.	Linda Olson Peltke	Linda O. Peltke	2/19/21	2
✓ 5.	Deborah Brown	Deborah Brown	2/19/21	1
✓ 6.	Donald G. Leka	Donald G. Leka	2/20/21	3
✓ 7.	Jane Gilman	Jane Gilman	2.20.21	3
✓ 8.	Robert Miller	Robert Miller	2/20/21	6
✓ 9.	Jill A. Winter	Jill A. Winter	2/20	8
✓ 10.	Robert T. Ventresca	Robert T. Ventresca	2/23	9
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We certify that the above (19) signatures are those of voters registered in the Town of Brookline.

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ANTHONY ISHAK  
(617) 652-0586  
aishakpharmd@yahoo.com

ARTICLE X-A Resolution to Encourage Voting in Brookline

Submitted by: Anthony Ishak, Deborah Brown TMM-1, Bettina Neuefeind TMM-1, Kate Silbaugh TMM-1, Amanda Zimmerman, Michael Zoorob

21 MAR 14 11:14

To see if the Town adopts the following resolution:

WHEREAS, approximately 51% of Brookline residents rent; and

WHEREAS, approximately 18% of Brookline residents voted in the 2020 Town election and

WHEREAS, renters vote at lower rates compared with homeowners; and

WHEREAS, voter registration applications are restricted to limited locations that may be difficult to access; and

WHEREAS, renters are registered to vote at a lower percentage as compared with homeowners; and

WHEREAS, renters have a vested interest in elections and particularly local elections that impact policies applicable to them; and

WHEREAS, voting promotes inclusivity to disadvantaged populations; and

WHEREAS, Massachusetts allows eligible citizens to register to vote in person at a number of public facilities including town halls, via mail in registration form, or online if the Registry of Motor Vehicles has their signature on file; and

WHEREAS, the Election Department requires Brookline residents changing addresses or people moving into the Town from another municipality to update their registration to remain an eligible voter; and

WHEREAS, the Town of Brookline is committed to making it easier for eligible residents to vote by considering all novel means to increasing access; and

WHEREAS, a cornerstone of the Town form of government is full participation by a majority of residents; and

WHEREAS, increasing voter access is not a costly endeavor as compared to the gains associated with full enfranchisement for renters;

**THEREFORE BE IT RESOLVED THAT:**

1. The Town of Brookline will promote voting by providing mail-in voter registration forms at all Town buildings regularly accessed by the public (including but not limited to: Town Hall, libraries, Brookline Public Housing properties, fire stations, police stations, and schools). It will also work with the Brookline Housing Authority (BHA) to ensure that its residents have easy access to voter registration forms.
2. The Town of Brookline will promote voting by including mail-in voter registration forms with the Annual Town Census.
3. The Town of Brookline will promote voting by providing absentee ballot applications with stamped envelopes at all Town buildings regularly accessed by the public (including but not

limited to: Town Hall, libraries, fire stations, police stations, and schools). The Town Clerk will work with BHA to identify locations for absentee ballot applications with stamped envelopes.

4. The Town of Brookline will ensure that it has ample multilingual materials at all voter registration sites, including online, and at polling stations by April 2022.
5. The Town of Brookline will send non-partisan robocalls and use social media to remind voters to cast ballots on Election Day beginning in May 2022.
6. The Town of Brookline will conduct a geospatial voter registration and voting patterns study to find areas where voter registration and voter turnout is low and groups are under-represented. It will produce a set of recommendations to increase voter participation among these underrepresented groups by January 31, 2022 and implement the recommendations by December 31, 2022.

Or act on anything relative thereto.

#### PETITIONER'S ARTICLE DESCRIPTION

The objective of this resolution is two-fold:

1. To increase Brookline's registered voter rate in our Town leading to increased participation at elections of all levels. Many residents do not have easy access to application forms given technology or location barriers. In fact last year there were an insufficient number of voting registration forms for residents of Brookline Public Housing. Brookline also has a high renter rate (nearly 50%) which makes it susceptible to having residents that frequently change addresses and are less likely to register to vote or vote with the current set-up.
2. To increase our local election participatory rate (recently ranging 6-26% since 2016 as per a 6/10/20 Patch article <https://patch.com/massachusetts/brookline/brookline-town-election-turnout-less-18-percent>). In 2020 with special dispensation there was an increase in voters using the mail-option to vote for the general election. This could also potentially increase the voting rate for those historically under represented (such as renters who vote at a rate of ~1/3 of homeowners) by increasing access to absentee voting.

Signature      Printed Name      Address      Precinct

*Y. Spigel*      Lauren Spigel      93 Longwood Ave #2      3

*Eric Ciles*      Eric Ciles      93 Longwood Ave #2      3

*Michael Zorob*      Michael Zorob      45 Longwood Ave #03      3

*Alexandra Metral*      Alexandra Metral      42 Beech Rd      1

*Max Metral*      Max Metral      42 Beech Rd      1

*Susan Helms Daley*      Susan Helms Daley      17 Chatham Circle      1

*Carol Hillman*      Carol Hillman      287 Kent St      1

*Cathleen Crowl*      Cathleen Crowl      27 Monmouth St.      1

*Daniel Ardrey*      Daniel Ardrey      42 St. Paul St. #2      7

*Katherine Sibyl*      KATHERINE SIBYL      68 Amory St. #1

*Willem Neufeld*      Willem Neufeld      20 Amory St #1

*Bettina Neufeld*      Bettina Neufeld      20 Amory St. 1

*Larry Lessig*      Larry Lessig      20 Amory St. #1

*Sarah T. Bochs*      Sarah T. Bochs      179 Aspinwall Ave      4

*Cydney Martel*      Cydney Martel      40 Amory Street 1

*Anthony ISHAK*      Anthony ISHAK      131 Freeman St #3      1

21 MAR 3 AM 11:33

**Proposal to create a Moderator Committee to report on progress and plans to address the recommendations of the Brookline Fiscal Advisory Committee's final report of February 2020**

Submitted by: Mike Toffel (TMM 8), Peter Bleyleben, Ben Franco, Mini Kolluri, David Kirshner, Nicole McClelland (TMM 11), Mariah Nobrega (TMM 4), David Pearlman (TMM 15), Paul Saner (TMM 13), Arthur Segel (TMM 14), and Nathan Shpritz (TMM 16)

To see if the Town will adopt the following Resolution:

WHEREAS in 2018 the Select Board created the charge for the Brookline Fiscal Advisory Committee (BFAC) to review and evaluate Brookline's fiscal and financial projections, examine the Town and School's budget principles and financial policies, and suggest actions to address misalignment between projected revenues and expenditures (the "structural deficit");

WHEREAS the Brookline Fiscal Advisory Committee issued its final report in February 2020, which including 18 primary recommendations and many secondary ones (available at <https://www.brooklinema.gov/1516/Brookline-Fiscal-Advisory-Committee>);

WHEREAS BFAC members presented the BFAC's final report recommendations to the Select Board, Advisory Committee, School Committee, Town Meeting Members, and the Brookline community-at-large in February – April 2020;

WHEREAS the BFAC report included a 24-month Implementation Plan to "place the Town and PSB on a path to begin operating under sustainable annual budgets, remain positioned to finance continued investment in infrastructure and facilities, and retain the Town's AAA credit rating" and included "a sequence and timeline for action on each recommendation along with their subsidiary recommendations, and clearly identifies the involved parties."

WHEREAS the BFAC report called for the plan's implementation to "be a shared responsibility among all of the principal government bodies", and specifically called for the following public bodies to consider the BFAC report's recommendations: Advisory Committee, Audit Committee, Committee on Town Organization & Structure, Economic Development Advisory Board, Planning Board, School Committee, Select Board;

WHEREAS the Town Administrator and the School Committee have considered and begun implementing some BFAC recommendations, but many of the BFAC report's recommendations have not yet been deliberated or acted upon by the relevant Brookline public bodies, despite being more than midway through the BFAC Implementation Plan's proposed two-year implementation schedule;

WHEREAS the COVID-19 pandemic was a major focus for Town officials and staff during the past year, the BFAC recommendations must nonetheless gain the attention they require in order to keep Brookline on a sound fiscal footing;

WHEREAS the Select Board has not issued comprehensive status reports on the Town's consideration of or implementation of BFAC recommendations;

WHEREAS many of the issues that prompted the Select Board to create BFAC remain unresolved;

## 10.A.

NOW, THEREFORE, BE IT RESOLVED that Town Meeting directs the Moderator to appoint a committee to document (1) the status of deliberations regarding each BFAC recommendation, (2) whether those deliberations have led to decisions to accept or reject the recommendation, and (3) the state of implementation plans and activities. This committee shall discuss these activities with, at least, the public bodies and roles named in the BFAC Implementation Plan contained in the BFAC final report. The committee shall deliver written reports to Town Meeting Members, the Select Board, the Advisory Committee, and the School Committee by August 15, 2021, February 15, 2022, and August 15, 2022 – timing that precedes by several weeks the dates when the Warrant will likely open in anticipation of the next three Town Meetings. The committee shall conduct at least one public presentation concurrent to the delivery of each of the aforementioned reports.

or act on anything relative thereto.



## APPENDIX

### BFAC Recommendations

*Source: Pages 11-14 and Appendix L of the Brookline Fiscal Advisory Committee Final Report, February 5, 2020 – Final Version, available at <https://www.brooklinema.gov/DocumentCenter/View/21168/February-5-Final-BFAC-Report>*

**Recommendation 1.** The Select Board and School Committee should have their administrations adopt common financial policies, to the extent possible, and create and institute performance management metrics to allow for better evaluation of budgetary decisions and lessen the influence of anecdotal statements and special interests in financial decisions.

**Recommendation 2.** The Select Board, School Committee, and Advisory Committee should adopt a financial review and budget process requiring periodic summits among the Select Board, the School Committee, and the Advisory Committee.

**Recommendation 3.** To the extent permissible, reform the warrant article development, review, and implementation process to enable consistent, transparent, robust analysis and reporting of each article's short-term and long-term costs and benefits; to discourage financial appropriations made outside the annual budget cycle; and to take into consideration the limitations of staff time and volunteer resources.

**Recommendation 4.** Change the structure, composition, and scope of the Town's Advisory Committee so it has the required skills and time to focus its attention on financial monitoring, analysis, and policy evaluation of both existing policies and proposed warrant articles.

**Recommendation 5.** Change the Town's independent audit and accounting firm at least every ten years. Rotate the lead partner assigned to the Town every five years. The next audit firm Brookline appoints should complete the annual audit of the fiscal year-end financial statements and conduct a sufficiently inquisitive review of the Town and School's internal controls.

**Recommendation 6.** Evaluate key programs and services on a periodic basis to assess their effectiveness and completion of objectives and to identify potential cost savings and opportunities for the redeployment of resources.

- **Recommendation 6.1** Require an investment analysis for new initiatives as well as look-back assessments.
- **Recommendation 6.2** Create rubrics and metrics for establishing spending and investment priorities, including the identification of funding sources.
- **Recommendation 6.3** Pilot test zero-based budgeting (ZBB) and outcome-based budgeting (OBB).

**Recommendation 7.** Establish the practice of designating three individual Select Board members as having primary responsibility for a) financial affairs of the Town, b) capital investment plans and activities, and c) economic development activities inclusive of longrange planning and zoning reform, with each Select Board member to monitor, evaluate, and supervise the work of staff with regard to the relevant affairs of the Town. In addition, establish policies and review responsibilities and authorities to have Select Board members lead by example in the area of financial discipline and to clarify and consider strengthening the role of the Town Administrator. Finally, implement a staff-based financial and capital management structure mirroring the Town's organization with appropriate oversight assigned to School Committee members and subcommittees.

- **Recommendation 7.1.** Encourage Select Board Members to lead by example in establishing improved financial decision making.
- **Recommendation 7.2.** Clarify positions of financial responsibility and authority
- **Recommendation 7.3.** Increase transparency and comprehension through the professional revision of 1) documentation for budget policies and procedures; and 2) format and content of financial reports.

**Recommendation 8.** Revisit the structure, including the revenue allocation formula, of the Town-School Partnership to ensure that it is better understood and that it best meets the needs of the Town and Schools in a dynamic manner.

**Recommendation 9.** Create an enhanced capital planning process covering the Town and Schools, including regular periodic evaluation of town-owned assets.

**Recommendation 10.** Develop annual Financial Improvement Plans (FIPs) to pursue high impact opportunities to increase revenues (e.g., PILOT program, AirBnB fees, building utilization) and better manage costs (e.g., special education medical expenses, building maintenance, new school construction standards, playgrounds and fields).

**Recommendation 11.** Annually assess and publicly report the extent to which any projected cost reductions or revenue increases in the Financial Improvement Plans actually materialize and why any shortfalls arise. Seek outside independent expertise to a) assist, as needed, in the evaluation and refinement of Financial Improvement Plans, and b) to provide independent monitoring of the Town's and Schools' compliance with Financial Improvement Plans and the BFAC Implementation Plan. The Urban Institute and the Bloomberg Harvard City Leadership Initiative are two widely respected organizations that may provide such services for modest (or no) cost. It is not required that a single entity provide both services described above.

**Recommendation 12.** Aggressively pursue new economic development to increase the vibrancy of the town's economy, generate new property tax revenues, minimize the burden on residential taxpayers, and expand payment in lieu of taxes (PILOT) revenues. To this end, enact zoning changes to incentivize new development and encourage increased density in designated areas. A significant commitment to strategic planning and public education will be necessary to achieve this goal.

**Recommendation 13.** Recommit to maintaining or exceeding, except for periods of extraordinary circumstances, minimum reserve levels established in the 2011 Fiscal Policy Review Committee Final Report; to restore funding as soon as possible to meet those thresholds; to add to present Stabilization Fund policies a minimum requirement; and to implement a new policy to increase overall fund balances to a target of 15 percent of Revenues within four years. (AA:  $30\% \geq n > 15\%$ )

- **Recommendation 13.1.** Restore unassigned fund balance minimum 10 percent of Revenues, with a target of 12.5% of Revenues.
- **Recommendation 13.2.** Establish a Stabilization Fund Policy of minimum annual funding equal to 0.67% of Revenue
- **Recommendation 13.3.** Replenish and maintain the Stabilization Fund at 50% of the new Unassigned Fund Balance target.
- **Recommendation 13.4.** Establish a Total Fund Balance (total reserves) policy with floor of 12.3% of Revenues, with a goal of 15%

**Recommendation 14.** Establish a maximum debt policy based on the ratio of Direct Debt to Operating Revenue to not exceed the requirement for the A level credit rating and a formal goal of achieving a Net Direct Debt to Revenue ratio at the AA level credit rating. In addition, commit to full disclosure of existing, proposed, and planned borrowings when asking voters to approve new debt exclusions. Finally, commit to the continual evaluation of alternative debt structures so as to balance cost, fairness, and the maximization of borrowing flexibility.

- **Recommendation 14.1.** Set policy to have Net Direct Debt (total debt level) divided by Revenue to at least the A level ( $0.67x < n < 3x$ )
- **Recommendation 14.2.** Set a goal to achieve Net Direct Debt divided by Revenue to at least the AA level ( $0.33x < n < 0.67x$ ) by FY36.
- **Recommendation 14.3.** Commit to full disclosure and transparency of existing proposed and planned borrowings when asking taxpayers to approve new debt exclusions

**Recommendation 15.** Develop a strategy to plan for periodic operating overrides to supplement the resources provided by recommendations 11 through 13 in order to meet the community's expectations of more and better services from the Town and Schools while addressing concerns that would accompany growing the tax base exclusively via accelerated economic development. To mitigate the dilutive impact of operating overrides' impact on reserve ratios, require operating override requests to be "grossed up" to provide sufficient additional funds to maintain reserves at targeted ratios and to recognize the additional financial risk associated with the newly approved greater financial obligations. Override resource allocations should be regularly evaluated for effectiveness in keeping with Recommendation 6 above.

- **Recommendation 15.1.** Any tax should be designed to allow for the broadest range of uses possible
- **Recommendation 15.2.** Voters must be provided more information when presented with future override and debt exclusion ballot questions
- **Recommendation 15.3.** As the Town develops plans, it must provide its taxpayers with the information that allows them to evaluate those plans and their costs on a basis entirely different from the current piecemeal approach
- **Recommendation 15.4.** Enact a policy to include in operating override requests the additional amounts necessary to maintain reserves

**Recommendation 16.** Consolidate Town and School financial planning into a single integrated financial model that reflects fully allocated costs between the Town and PSB for use in all Town and School budgeting, investment, and forecasting decisions.

**Recommendation 17.** Annually compare the Town's financial position to the Moody's Scorecard criteria in order to assess and address any vulnerabilities to preserving Brookline's AAA credit rating.

**Recommendation 18.** Amend Section 2.1.14 of the Town By-Laws to include the requirement that all Town Meeting Members attend at least one informational/training meeting that covers the Town budgeting process and financial matters every three years.

**Contact details of co-petitioners:**

Michael Toffel ([mtoffel@hbs.edu](mailto:mtoffel@hbs.edu)) – Primary petitioner  
Peter Bleyleben ([peter.bleyleben@me.com](mailto:peter.bleyleben@me.com))  
Ben Franco ([franco.b.j@gmail.com](mailto:franco.b.j@gmail.com))  
Mini Kolluri ([minikolluri@yahoo.com](mailto:minikolluri@yahoo.com))  
David Kirshner ([dkirsh4@gmail.com](mailto:dkirsh4@gmail.com))  
Nicole McClelland ([nicole.mcclelland@gmail.com](mailto:nicole.mcclelland@gmail.com))  
Mariah Nobrega ([mariah.nobrega@gmail.com](mailto:mariah.nobrega@gmail.com))  
David Pearlman ([david\\_pearlman@psbma.org](mailto:david_pearlman@psbma.org))  
Paul Saner ([paulsaner@comcast.net](mailto:paulsaner@comcast.net))  
Arthur Segel ([asegel@hbs.edu](mailto:asegel@hbs.edu))  
Nathan Shpritz ([nathanshpritz@comcast.net](mailto:nathanshpritz@comcast.net))

Warrant Article signature page: Proposal to create a Moderator Committee to report on progress and plans to address the recommendations of the Brookline Fiscal Advisory Committee's final report of February 2020

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

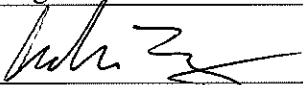



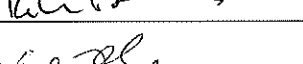
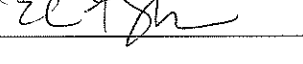
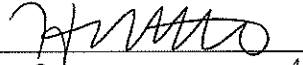
	Signature	Printed name	Address
✓ 1	Abigail Cox	Abigail Cox	18 Osborne Rd.
✓ 2	Chad Cox	CHAD COX	18 OSBORNE RD.
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21 MAR 3 AM 11:40

Warrant Article signature page: Proposal to create a Moderator Committee to report on progress and plans to address the recommendations of the Brookline Fiscal Advisory Committee's final report of February 2020

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

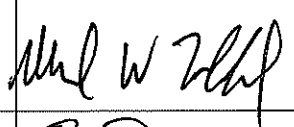
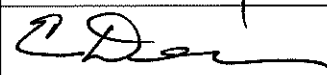
	Signature	Printed name	Address
✓ 1		Archon Fung	43 Beale St Brookline, MA 02446
✓ 2		Deborah Fung	43 Beale St.
✓ 3		Tracie Burns	100 Beale St
✓ 4		Kate Poverman	39 Adams St
✓ 5		Eleanor Boynton	16 Crowninshield Rd
✓ 6		Hannah Wighart	16 Crowninshield Rd
✓ 7		Barbara C. Sottho	26 Crowninshield Rd,
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Warrant Article signature page: Proposal to create a Moderator Committee to report on progress and plans to address the recommendations of the Brookline Fiscal Advisory Committee's final report of February 2020

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
✓ 1		Michael Toffel (PRIMARY PETITIONER) Tel: 617-999-9318 Email: mtoffel@hbs.edu	25 Abbottsford Road
✓ 2		Erin Deemer	25 Abbottsford Road
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Warrant Article signature page: Proposal to create a Moderator Committee to report on progress and plans to address the recommendations of the Brookline Fiscal Advisory Committee's final report of February 2020

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
✓ 1	<i>Edward L. Leach</i>	Edward L. Leach	106 Beals St.
✓ 2	<i>Leslie Spencer</i>	Leslie Spencer	106 Beals St.
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21 MAR 8 AM 11:41

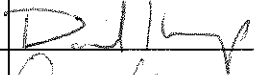
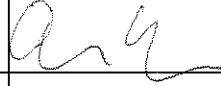


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Warrant Article signature page: Proposal to create a Moderator Committee to report on progress and plans to address the recommendations of the Brookline Fiscal Advisory Committee's final report of February 2020

The following registered Brookline voters support the attached submitted article

*Please write neatly as the Town Clerk will need to validate that you are a registered voter.*

	Signature	Printed name	Address
✓ 1		DAVID KROOP	27 OSBORNE RD. BROOKLINE, MA
✓ 2		Elissa Yanover	27 Osborne Rd Brookline
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21 MAR 3 11:41

21 MAR 3 PM 12:28

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK**A Resolution on our Climate Emergency**

Submitted by:

2021 MAR -3 P 12:36

Maya Norton, Naples Road, [mayanorton2014@gmail.com](mailto:mayanorton2014@gmail.com) (lead petitioner)Sasha Kalvert, Fairmount Street, [sasha.kalvert@gmail.com](mailto:sasha.kalvert@gmail.com)

To see if the Town will adopt the following Resolution:

WHEREAS, in April 2016, world leaders from 175 countries recognized the threat of climate change and the urgent need to combat it by signing the Paris Agreement, agreeing to keep warming, "well below 2°C above pre-industrial levels" and to "pursue efforts to limit the temperature increase to 1.5°C"; and

WHEREAS, the present level of global warming has triggered catastrophic changes to the earth system; and global warming of 1.5°C has already increased wildfires, heat waves, droughts, flash floods, rising seas, and extreme weather; and continued global warming would further intensify the melting of the glaciers, polar ice sheet collapse, accelerating sea level rise, superstorms, hurricanes, mosquito-borne diseases, water and food shortages, and civil unrest; and

WHEREAS, national security experts agree that the climate emergency is a threat multiplier contributing to the earth's 6<sup>th</sup> mass extinction of species; and

WHEREAS, humanity can no longer safely emit greenhouse gases without irreversible climate destruction; and

WHEREAS, virtually all sectors of the economy produce gas emissions, including energy, industry, food, transportation, buildings, and land use; and

WHEREAS, the International Energy Agency and World Economic Forum report that the United States is responsible for 15% of the world's total carbon emissions-- but with the greatest per capita (per person) emissions. The United States therefore has the most significant burden to reduce emissions, and must draw down at a faster and higher rate than other countries; and

WHEREAS, the climate emergency threatens the Town of Brookline, the region, state, nation, civilization, humanity, and the natural world; and

WHEREAS, across the world, nearly 2,000 cities and towns have declared climate emergencies, including 22 communities in Massachusetts; and

WHEREAS, the City of Boston adopted a resolution in January 2020 declaring "that the climate crisis is a health emergency [in which] the health threats of climate change include increased exposure to extreme heat, reduced air quality, more frequent and intense natural hazards, increased exposure to infectious diseases and allergens, effects on mental health, and increased risk of population displacement and conflict." Thereby causing health disparities which "disproportionately harm the most vulnerable among us – children and pregnant women, people with low income, the elderly, people with disabilities and chronic illnesses, and marginalized peoples of all races and ethnicities"; and

WHEREAS, the Just Transition framework, as proposed for example by the Climate Justice Alliance, creates an ecologically, socially, and economically conscious regenerative transition to Life After Peak Oil by shifting the economy from funding industrial food systems to food sovereignty, from highways to public transit, from car-dependent sprawl to smart and resilient urban development without displacement, and from over-development to ecosystem restoration; and

WHEREAS, the Town of Brookline can act as a leader by taking concrete steps to catalyze a regional Just Transition and urgent climate crisis mobilization;

NOW THEREFORE BE IT RESOLVED that the Town of Brookline declare a Climate Emergency, recognizing the truth about the climate crisis and what it demands of us: an emergency response at emergency speed; and

BE IT FURTHER RESOLVED that the Town of Brookline establish a public Climate Mobilization Group comprised of stakeholders across the community whose mandate is to act with urgency in creating immediate adaptations for Just Transition and the climate crisis that is upon us; and

BE IT FURTHER RESOLVED that the Town of Brookline commit to keeping the outcomes of vulnerable communities central to all Just Transition and urgent climate mobilization planning processes and invites and encourages such communities to actively participate in order to advocate directly for their needs; and that the Town of Brookline underscores the need for full community participation, inclusion, and support, and recognizes that its residents, community organizations, faith, youth, elders, labor, business, academic institutions, environmental, economic, science-based, racial, gender, family and disability justice, Indigenous, immigrant, and women's right organizations and other such allies will be integral to the leadership of the mobilization effort; and

BE IT FURTHER RESOLVED that the Town of Brookline create and adopt an aggressive Climate Crisis Action Plan which

- Achieves net zero carbon emissions by 2030 and establishes targets for carbon neutrality in strategic one- and two-year benchmarks;
- Builds upon the data from the 2020 Sustainability report;
- Is led by the staff of the Town of Brookline, specifically the Director and Assistant Director for Sustainability Planning, and written in partnership with members of the Climate Mobilization Group, the Select Board's Climate Action Committee, and other key stakeholders, engaging all Town departments, and educational institutions at every level of development; and
- Is published annually and requires scheduled annual demonstrations by all parties of effective work toward established benchmarks, striving for a high degree of transparency through public promotion, engagement, and access to information to move the community as a whole toward these vital goals; and

BE IT FURTHER RESOLVED that the Town of Brookline invest in public education and action, specifically holding quarterly community forums focusing on drawdown and Life After Peak Oil, with open invitation and participation for all members of the Brookline community, and creating working groups to achieve measurable progress toward these goals.

Or act on anything relative thereto.

Name:

Signature:

Precinct Number:

Date:

1.	SETH KALVER	[Signature]	14	2/28/21	✓
2.	Rachel Kalvet	[Signature]	14	2/28/21	✓
3.	Elizabeth Feinstein-Nixon	[Signature]	6	3/1/21	✓
4.	SUSAN SILBERBERG	[Signature]	7	3/1/21	✓
55.	Kathleen Pagan	[Signature]	7	3/1/21	
56.	John Velin	[Signature]	7	3/1/21	
7.	Marsha Frankel Mrazek	[Signature]	7	3/1/21	
8.	Louis Silberberg	[Signature]	7	3/1/21	
9.	Tina Cassidy	Tina Cassidy	5	3/1/21	
510.	[Signature]	[Signature]	5	3/1/21	
11.	OLIVIA D. REYELT	[Signature]	5	3/1/21	
12.	William E. Revelt	WILLIAM REVELT	5	3/1/21	
13.	Emily Mann	[Signature]	5	3/1/21	
14.	Ronald Sandler	[Signature]	5	3/1/21	
15.	Celia C. Sandler	[Signature]	5	3/21	
16.	Maya Shashova	[Signature]	12	3/1/21	
17.	Andy Guttell	[Signature]	12	3/1/21	
18.	Karen Shashova	[Signature]	12	3/1/21	
19.	JEFF BROWN	[Signature]	11	3/1/21	
20.	Latie Bacon	[Signature]	14	3/3/21	

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02:21 PM 12:28

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'21 MAR 4 10:57

Petitioner/s: Deborah Brown, Luciana Schachnik, Arthur Conquest and Jonathan Klein  
 Contact Info: deborah.brown1@comcast.net

**Warrant Article: RESOLUTION REGARDING THE FISHER HILL SITE AFFORDABLE HOUSING STUDY COMMITTEE**

WHEREAS, the Town's need for housing has gone largely unmet because of the high cost of land, complex zoning issues and limited land, and

WHEREAS, the Town's 2016 Housing Production Plan is the yardstick for evaluating housing production, and

WHEREAS, the Town lacks to the requisite resources to adequately conduct such research called for in the 2016 Housing Production Plan, and

WHEREAS, the Town's 2016 Housing Production Plan asserts that the Town will "provide more than 10 percent of Brookline's year-round housing stock as affordable housing to address documented housing needs and preserve the long-term affordability and physical condition of existing affordable housing units. Participants affirmed this goal with some suggesting that Brookline strive to go beyond the 10% minimum and serve the actual number of residents in need, and,

WHEREAS, Brookline has an expressed commitment to exceed its 10% affordable housing goals, it has struggled to meet this the actual housing needs, and,

WHEREAS, the Town's 2016 Housing Production Plan asserts the it "will look to encourage new housing and mixed-use development, where appropriate, on: Municipally-owned parcels, such as the municipally owned parking lot in Brookline Village situated between Kent and Station Streets, and other properties that may be identified and prioritized as part of a future Strategic Asset Plan," and,

WHEREAS, no such study of municipally-owned parcels has occurred, and

WHEREAS, the 2016 Housing Production Plan calls for the Town to "continue to nurture partnerships with mission-based development organizations to help foster affordable housing development," and

WHEREAS, the Town of Brookline recently purchased 110, 124 and 150 Fisher Avenue and 146 Hyslop Road, but has no planned use for the site, and

NOW THEREORE, be it resolved, that Town Meeting requests that the Select Board with the assistance of the Housing Advisory Board, appoint, within sixty (60) days following the Town Meeting vote, a committee comprised of Housing Advisory Board members, the Brookline Housing Authority, The Brookline Improvement Coalition, one experienced developer and at least one resident to explore ways to build family affordable housing at Book 307, page 1057 and also known as 110, 124 and 150 Fisher Avenue and 146 Hyslop Road and to utilize the committee process and Request for Information tool as recently used for the Kent/Station Street Affordable Housing Initiative. The study team would have 180 days to complete their feasibility study.

Or act on anything relative thereto.

**EXPLANATION:**

Brookline has substantial affordable housing needs that go unmet. This novel approach shifts a great deal of the burden for evaluating these public parcels onto the hands of experienced affordable housing developers to produce a

## 10.A.

preliminary site assessment and pre-development review. They would submit their findings to the Town in order to issue a request for proposal in order to transfer the land.

Source: brookline housing production plan, july 2016

'21 MAR 4 AM 10:57

**Registry Use Only**

Norfolk Registry of Deeds  
Dedham, Mass.  
Received Dec. 22, 1983  
With \_\_\_\_\_

Filed as No. 1057-1983 P. 1, Bk. 307  
Attest: [Signature]  
Register

**PLAN OF LAND**  
**HYSLOP ROAD, BROADLINE**  
**NORFOLK COUNTY, MASS.**

OWNER: MRS. K. GLENVILLE  
146 HYSLOP ROAD  
BROADLINE, MASS.

DATE: DEC 29, 1983

APPROVAL UNDER SUBDIVISION  
CONTROL LAW NOT REQUIRED  
BROADLINE PLANNING BOARD  
[Signature]

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED  
IN CONFORMANCE WITH THE RULES AND REGULATIONS  
OF THE REGISTRY OF DEEDS OF THE COMMONWEALTH  
OF MASSACHUSETTS.

DATE: DEC 29, 1983  
[Signature]  
JOHN F. YOUNG, R.L.S.

SCALE: 1" = 40' DATE: 12-29-83 NO. 12782

ENGINEER: \_\_\_\_\_  
CONSULTING ENGINEERS: \_\_\_\_\_  
HOLBROOK, MASS. 02343

ORIGINAL ON FILE Filed as No. 1057-1983 P. 1, Bk. 307

**RESOLUTION REGARDING THE FISHER HILL SITE AFFORDABLE HOUSING STUDY  
COMMITTEE**

21 MAR 4 AM 10:57

## Signatures

Name	Signature	Address	Precinct
1. Deborah Brown	<i>Deborah Brown</i>	26 Parkman St, #1	1
2. Julie Buchinski	<i>Julie Buchinski</i>	26 Parkman St #1	1
3. ENRIQUE TAMAYO	<i>Enrique Tamayo</i>	30 PARKMAN ST #2	1
4. Inga Sheaffer	<i>Inga Sheaffer</i>	80 Pleasant #45	2
5. Anne Reenwald	<i>Anne Reenwald</i>	6 Gibbs St	8
6. Jeremy Bloch	<i>Jeremy Bloch</i>	6 Gibbs St	8
7. Christina Kovach	<i>Christina Kovach</i>	99 Beals St.	8
8. Paul Fernandez	<i>Paul Fernandez</i>	99 Beals St.	8
9. Jonathan Klein	<i>Jonathan Klein</i>	150 St. Paul #406	10
10. Amy Schottentels	<i>Amy Schottentels</i>	150 St. Paul #406	10
11. LUCIANA SCHACHNIK	<i>Luciana Schachnik</i>	7 CLARK Rd	6
12. JULIA SCHACHNIK	<i>Julia Schachnik</i>	7 CLARK RD	6
13. Gilson Schachnik	<i>Gilson Schachnik</i>	7 Clark Rd	6
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21 MAR 4 PM 10:58

Petitioner/s: Deborah Brown, Luciana Schachnik, Arthur Conquest and Jonathan Klein  
 Contact Info: deborah.brown1@comcast.net

**Warrant Article: RESOLUTION REGARDING BABCOCK ST PARKING LOT AFFORDABLE HOUSING STUDY COMMITTEE**

WHEREAS, the Town's need for housing has gone largely unmet because of the high cost of land, complex zoning issues and limited land, and

WHEREAS, the Town's 2016 Housing Production Plan is the yardstick for evaluating housing production, and

WHEREAS, the Town lacks to the requisite resources to adequately conduct such research called for in the 2016 Housing Production Plan, and

WHEREAS, the Town's 2016 Housing Production Plan asserts that the Town will "provide more than 10 percent of Brookline's year-round housing stock as affordable housing to address documented housing needs and preserve the long-term affordability and physical condition of existing affordable housing units. Participants affirmed this goal with some suggesting that Brookline strive to go beyond the 10% minimum and serve the actual number of residents in need, and,

WHEREAS, Brookline has an expressed commitment to exceed its 10% affordable housing goals, it has struggled to meet this the actual housing needs, and,

WHEREAS, the Town's 2016 Housing Production Plan asserts the it "will look to encourage new housing and mixed-use development, where appropriate, on: Municipally-owned parcels, such as the municipally owned parking lot in Brookline Village situated between Kent and Station Streets, and other properties that may be identified and prioritized as part of a future Strategic Asset Plan," and,

WHEREAS, no such study of municipally-owned parcels has occurred, and

WHEREAS, the 2016 Housing Production Plan calls for the Town to "continue to nurture partnerships with mission-based development organizations to help foster affordable housing development," and

NOW THEREORE, be it resolved, that Town Meeting requests that the Select Board with the assistance of the Housing Advisory Board, appoint, within sixty (60) days following the Town Meeting vote, a committee comprised of Housing Advisory Board members, the Brookline Housing Authority, The Brookline Improvement Coalition, one experienced developer and at least one resident to explore ways to build family affordable housing at Parcel 047A-07-09, Lot 3, Book 549 and Page 604 also known as 15 Babcock Street and to utilize the committee process and Request for Information tool as recently used for the Kent/Station Street Affordable Housing Initiative. The study team would have 180 days to complete their feasibility study.

Or act on anything relative thereto.

**EXPLANATION:**

Brookline has substantial affordable housing needs that go unmet. This novel approach shifts a great deal of the burden for evaluating these public parcels onto the hands of experienced affordable housing developers to produce a preliminary site assessment and pre-development review. They would submit their findings to the Town in order to issue a request for proposal in order to transfer the land.

Source: brookline housing production plan, july 2016



Town of Brookline, MA

## Exempt Property Record Card

Print

FY 2021

[New Search](#)

Parcel ID

047A-07-09

Location

15 BABCOCK ST

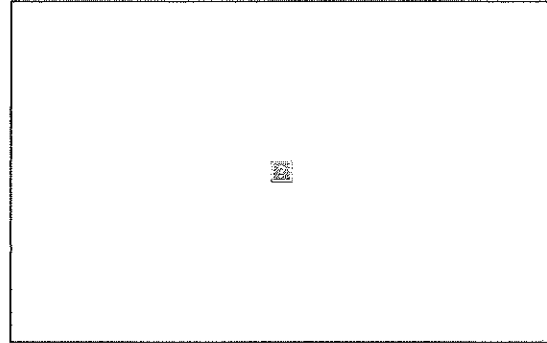
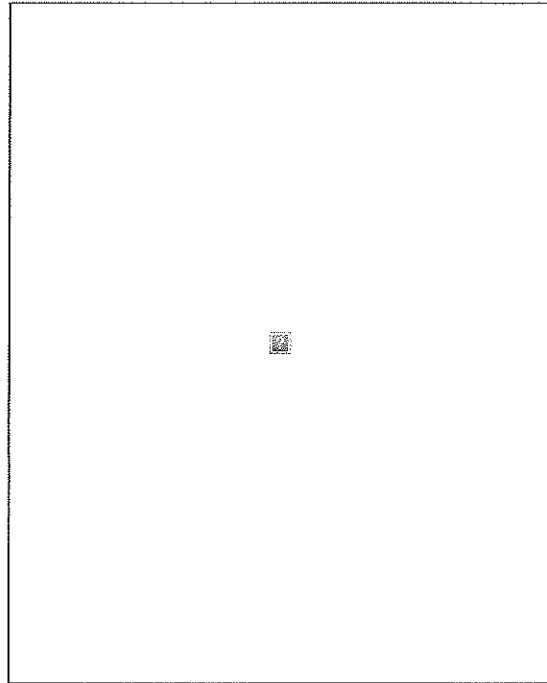
State Class

931 IMPROVED

CC

[Neighborhood Information](#)**Owner Information**

TOWN OF BROOKLINE C/O BABCOCK ST PARKING LOT  
 333 WASHINGTON ST  
 BROOKLINE, MA 02445

**Deed Information****Legal Ref.:** 4243-622**Land Area:** 26,485**Sale Date:** 2/19/1965**Sale Price:** \$55,000**History****FY 2020:** \$ 4,106,500**FY 2019:** \$ 3,912,500**FY 2018:** \$ 3,409,400**FY 2017:** \$ 2,960,100**FY 2016:** \$ 2,960,100**FY 2015:** \$ 2,706,000**FY 2014:** \$ 2,919,900**FY 2013:** \$ 2,949,900**FY 2012:** \$ 2,949,900**FY 2011:** \$ 2,736,000**FY 2010:** \$ 1,350,800**Valuation/Taxes****Residential Value:** \$0**Commercial Value:** \$0**Exempt Value:** \$4,110,800**Residential Exemption:** N**FY21 Real Estate Tax:** \$0**FY21 Preliminary Tax:** \$0**Property Picture****Building Sketch**[GIS Viewer](#)

For Maps, Aerial Views, Zoning,  
 Parks, and Historic Information

8C:01W 7 WNW TZ.

21 MAR 4 4:10:58

# RESOLUTION REGARDING BABCOCK ST PARKING LOT AFFORDABLE HOUSING STUDY COMMITTEE

## Signatures

Name	Signature	Address	Precinct
1. Deborah Brown	<i>Deborah Brown</i>	26 Parkman #1	1
2. Julie Buchinski	<i>Julie Buchinski</i>	26 Parkman #1	1
3. ENRIQUE TAMAYO	<i>Enrique Tamayo</i>	30 PARKMAN # 2	1
4. Inga Sheaffer	<i>Inga Sheaffer</i>	80 Pleasant St #45	2
5. Anne Greenwald	<i>Anne Greenwald</i>	6 Gibbs St.	8
6. Jeremy Bloch	<i>Jeremy Bloch</i>	6 Gibbs St.	8
7. Raul Ferrnider	<i>Raul Ferrnider</i>	99 Beals St.	8
8. Christina Kovach	<i>Christina Kovach</i>	99 Beals St.	8
9. Jonathan Klein	<i>Jonathan Klein</i>	150 St. Paul #406	10
10. Amy Scho Henfels	<i>Amy Scho Henfels</i>	150 St. Paul #406	10
11. LUCIANA SCHACHNIK	<i>Luciana Schachnik</i>	7 CLARK Rd.	6
12. JULIA SCHACHNIK	<i>Julia Schachnik</i>	7 CLARK RD	6
13. GILSON SCHACHNIK	<i>Gilson Schachnik</i>	7 Clark Rd	6
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'21 MAR 3 PM 1:43

## Sustainable Public Access at Brookline Interactive Group

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK

2021 MAR -3 P 1:56

Submitted by:

Daniel Saltzman, TMM-6; 62 White Place; [brookline@dgnetworks.com](mailto:brookline@dgnetworks.com) (lead petitioner)

Bonnie Bastien, TMM-5; 32 Oakland Rd; [bonniebastien@gmail.com](mailto:bonniebastien@gmail.com)

To see if the Town will adopt the following Resolution:

WHEREAS, Brookline Interactive Group (BIG) provides an invaluable service to the Town;  
and

WHEREAS, the transition of subscribers from traditional cable to broadband leads to a shift in the funding of public access stations; and

WHEREAS, the resources of Brookline Interactive Group could be further utilized in the Town to provide direction for information access generally;

WHEREAS, the licensing authority of the Town, for example over grants of location and the cable franchise, can be used to acquire resources for the public at low cost;

THEREFORE BE IT RESOLVED that the Town commit to providing stable funding for BIG not dependent on the cable choices of Town residents, including by increasing the percentage of cable franchise fees devoted to BIG; and

BE IT FURTHER RESOLVED that the Town explore further partnerships with the Brookline Interactive Group to utilize its resources and expertise for public benefit, for example community broadband or computer labs and internet access to underserved populations;  
and

BE IT FURTHER RESOLVED that the Select Board establish a committee, including representatives from BIG and members of the public, to reexamine the ways that grant-of-location and cable licensing could provide benefit to the Town and opportunities for future benefit, including the uses made of subscriber fees, equipment/facilities funds, dark fiber, and side agreements such as for internet access, and make a report to the Town by May 2022.

Or act on anything relative thereto.

# Petitioner's Explanation

**BIG's long-term future of community media services to the Town of Brookline is in crisis.**

Despite BIG's 35-year long efforts to assure all voices in our community are amplified, that local stories and organizations have access to media making and a digital platform, and that local democracy is kept transparent, **the traditional funding of BIG, cable fees, is in a precipitous decline. We must ensure the long term financial viability of Brookline Interactive Group (BIG) to secure its critical and timely services to the Town of Brookline.**

## This warrant article

This article seeks to provide budget guidance to the Town to allow BIG to continue to support the Town into the future, by stabilizing its funding and exploring new partnerships and to raise awareness in order to begin a discussion about funding changes.

## Solution

This warrant article seeks to address these issues by:

1. Encouraging the town to commit to stable funding for BIG long-term through increasing the percentage of cable fees the Town allocates to BIG for the above services.
2. Explore further collaboration with BIG to maximize the public benefit of the cable franchise fees to the Town (i.e institutional Internet at public buildings, municipal fiber research, job training and technical training to seniors, etc.)

## About BIG

Founded 35 years ago, **Brookline Interactive Group (BIG), formerly known as BATV, is an independent, non-profit organization** serving the community media needs of Brookline residents. Rooted in the legacy of public access television, BIG's funding, relationships, and education programs are focused on traditional media and a cable-distribution model. BIG offers extensive training in digital storytelling, video production and editing, graphics and animation, as well as web development, providing access to high-quality filmmaking and studio equipment to all of Brookline.

BIG's community cable channels distribute public safety and community governance information, coverage of community-wide discussions, government meetings, public hearings, community news journalism programs, and provides media coverage for hundreds of hours of local events, lectures, and performances.

## Why This Warrant Article

BIG is the only source of hyperlocal, broadcasted community content, amplifying the voices of all residents, offering public access to media making equipment, and providing classes for low-income residents, job training programs for youth, and comprehensive tech training for seniors, all in collaborations with nearly all nonprofit, education, and governmental committees and entities in Town.

BIG operates two traditional community cable channels and multiple live cable streams online, live streamed on Facebook and YouTube and via cable television over Comcast and RCN. BIG's Civic (government and educational) channels are Comcast 23 and RCN 15; Community (public access) channels are Comcast 3 and RCN 6 & 613.

#### **Summary of BIG'S Key Programs in 2020-21**

- Live coverage via cable and online platforms and archiving of Town Meeting, Select Board and School Committee meetings, as well as **over 500 other community meetings** as requested and staffing allows
- Extended education & remote learning opportunities for youth and seniors
- During COVID-19 BIG quickly pivoted to provide a nationally-recognized, innovative response
  - **Increased government coverage and training programs** for electeds, staff and Town committees and commissions beginning on March 16th
  - **Daily Public Health & Emergency Information posts** supporting local businesses, nonprofits, and town departments and committees/commissions regarding Covid-19
  - **Improved quality of live meetings**, all managed remotely for staff and public safety
  - **Customized programming for seniors-** i.e. printed program guide, intergenerational storytelling, health and safety information, and the production of historical documentaries for Brookline Community Aging Network (BCAN), the Brookline Senior Center, MLK Day Celebration Committee, and the League of Women Voters, etc.
  - **Increased coverage of community decision-making** (including elections forums and live election night coverage, voter education videos, BHS graduation) and created graphics, videos, and produced fundraising events for community support organizations (including for Mutual Aid Brookline, Safety Net, The Brookline Food Pantry, BCF, Brookline Strong, Brookline Community Engagement Committee, Inclusive Brookline, BTC, Steps to Success, Brookline Youth Awards, etc.)

For its many contributions in Town in 2020, BIG is being awarded the **2020 Cultural Contributor Award by the Brookline Commission for the Arts**. This award is an annual award recognizing one person or organization that has made a significant contribution to the cultural life of Brookline.

#### **Stable Funding**

Federal law allows a maximum of 5% of funding from the Town's contracts with the cable companies (Comcast and RCN, essentially in return for the public right of way to cable services in Brookline) to support public access television and community media. Brookline receives the full 5% from these companies, allocates 2% to BIG, and puts an additional 3% in the General Fund. **We're asking for an increase in BIG's share over time. In some communities, like in Newton, the entire 5% of the cable fee income is allocated to community media services.**

### **Further Partnerships**

As our residents move away from cable to direct Internet access to news and entertainment, the funds raised by this 5% will continue to decrease. This article urges the Town to consider long-term opportunities to partner with BIG and to explore additional ways to provide alternative funding and use the resources of BIG in ways that are not tied to cable revenue. We hope a robust public discussion of our licensing and contracts will help identify similar opportunities for the Town to obtain public benefit and to support the ability of BIG to provide long-term services to the Town.

### **Innovating Into the Future**

BIG is one of the most **innovative community media centers in the country**, establishing public access to traditional and emerging media and storytelling, awarded regional, national and international recognition for the high caliber of individual, youth, senior and staff-produced media content and documentaries. BIG has also been recognized for their innovative work in emerging and new media, and for collaborations with organizations like the Boston Globe, the United Nations Environmental Assembly, and the Virtual World Society.

**BIG is a leader in a national network** of 1500 community television stations and community media arts organizations that provide a variety of media and telecommunications needs in local communities.

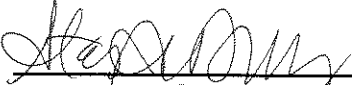





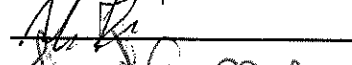
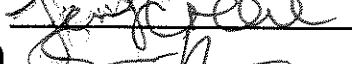
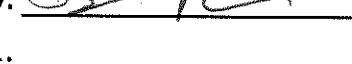

In recent years BIG has reimagined itself as a **next-generation media arts organization and national leader**; teaching 27 afterschool programs for children and youth, operating a paid job training media arts apprenticeship program for high school youth, and managing media literacy and production programs for K-12 students and educators, with over 500 regional participants in its programs. BIG offers production grants and screenings, film sprints, classes, and cohort filmmaking programs, and provides media services to nonprofits, artists, libraries, educators, and government.

BIG's project, **the Public VR Lab**, is building a new field for community-based virtual and extended reality (XR) through facilitating community access to VR tools, creating best practices, providing low-cost training, equipment, and producing content to promote virtual reality in the public interest. BIG's innovative project, Arrival VR, an immigration/migration project of 400 years of American immigration/migration, is currently under consideration for adoption by the national Innovation Lab of the AARP.

Visit [www.brooklineinteractive.org](http://www.brooklineinteractive.org) to read more about BIG's work in Brookline and beyond.

SIGNATURES (Ten registered voters required)

The following registered Brookline voters support the attached submitted article.

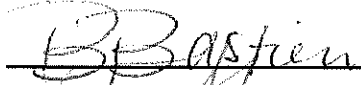


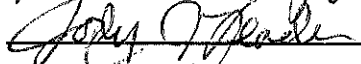



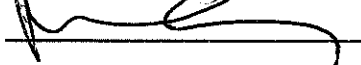
<u>Signature</u>	<u>Print Name</u>	<u>Address</u>
1. 	Stacy Downey	61 White Pl. ✓
2. 	Brendan Downey	61 White Pl ✓
3. 	Shanna Shulman	68 Davis ✓
4. 	MATIC BAIZE	68 DAVIS ✓
5. 	Daniel Salzman	62 White Place ✓
6. 	Jennifer Amyne	62 White Pl. ✓
7. 	Ethan Treisman	26 Gorham Ave ✓
8. 	Marissa Heller-Treisman	26 Gorham Ave ✓
9. 	Jenna Greene	35 Gorham Ave ✓
10. 	Seamus Boshell	35 Gorham Ave ✓
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## Warrant Article signature page

SIGNATURES (Ten registered voters required)

The following registered Brookline voters support the attached submitted article.

	<u>Signature</u>	<u>Print Name</u>	<u>Address</u>	
1.		Bonnie Bastien	32 Oakland Rd.	✓
2.		Karen Flanner	36 Oakland Rd.	✓
3.		Burton LeGeyt	32 Oakland Rd.	✓
4.		Jody Leader	50 Oakland Rd.	✓
5.		Leslie O'Leary	23 Roberts St #3	✓
6.		Robert Spielvogel	36 Oakland Rd.	✓
7.		Monra Giovanni	35 Oakland Rd.	✓
8.		Maureen Coffey	21 Hawthorn Rd.	5 ✓
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ARTICLE 1FIRST ARTICLE

Submitted by: Select Board

To see if the Town will establish that the number of Measurers of Wood and Bark be two, to be appointed by the Select Board, or act on anything relative thereto.

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PETITIONER'S ARTICLE DESCRIPTION

Article 20 of the November, 2000 Special Town Meeting requires that this be the first article at each Annual Town Meeting. It calls for the Select Board to appoint two Measurers of Wood and Bark.

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21 MAR 2 PM 12:30

ARTICLE xx ARTICLE

Submitted by: Select Board

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of the previous years, which may be legally unenforceable due to the insufficiency of the appropriations therefore, and appropriate from available funds, a sum or sums of money therefore, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for every Town Meeting in case there are any unpaid bills from a prior fiscal year that are deemed to be legal obligations of the Town. Per Massachusetts General Law, unpaid bills from a prior fiscal year can only be paid from current year appropriations with the specific approval of Town Meeting.

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21 MAY 2 PM 12:23



# TOWN of BROOKLINE

## *Massachusetts*

**MELVIN A. KLECKNER**  
TOWN ADMINISTRATOR

333 WASHINGTON STREET  
BROOKLINE, MASSACHUSETTS 02445  
TEL. (617) 730-2211  
FAX: (617) 730-2054  
[www.brooklinema.gov](http://www.brooklinema.gov)

### Memorandum

To: Select Board  
From: Mel Kleckner, Town Administrator  
Subject: ACPH Membership Discussion  
Date: Friday, March 5, 2021

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I had previously written you to address issues associated with appointments to the Advisory Council on Public Health (see attached). The Board acted to adopt Option #3 and established an associate membership category. It appointed Dr. Roque Gordon as a non-voting associate member. Since that time, there has been no progress on filling the “environmental health” slot on the Council and we have now received another application from a highly qualified candidate (an epidemiologist but not an environmental health expert). The solutions identified in the prior memo remain available and the Board should discuss them to reach a resolution for the current application.

**OFFICE OF THE TOWN ADMINISTRATOR**

**MEMO TO:** Select Board

**FROM:** Mel Kleckner, Town Administrator

**DATE:** October 13, 2020

**SUBJECT:** Calendar Item #13- Appointments to the Advisory Council on Public Health

The Advisory Board of Public Health is a body authorized by the special act creating the Town's department of public health (see attached Chapter 345 of the Acts of 1945 as amended). Section 3 of the Act requires the Select Board to appoint an advisory council of public health whose duties shall be to act in an advisory capacity to the director of public health. The statute calls for membership of the council to be six persons but does not address qualifications or experience.

In practice, the Advisory Council is made up of highly qualified residents of the Town who provide solid advice to the Director and the Town. As I understand, each Council member is assigned a division or function within the department of public health, and it is expected that this member will serve as a liaison between staff and the Council. The current vacancy on the Council was created by the resignation of Dr. Nalina Narain. As Deputy Director at the Massachusetts DPH's Bureau of Environmental Health, Dr. Narain was a particularly effective Council liaison to the Town's environmental health function. The Health Department desires to fill this vacancy with an individual with similar expertise in environmental health (defined as chemical and other environmental exposures in air, water, soil and food to protect people and provide communities with healthier environments).

When the Town solicited for applicants to the Advisory Council on Public Health, it did not specify any specific expertise or qualifications. The Town received an application from Dr. Rosemary Roque Gordon, a pediatrician with a MPH degree, as well as applications for reappointment from current members Dr. Tony Schlaff, a medical doctor with an MPH degree who teaches community medicine, and Patricia Maher, a Registered Nurse with a MS degree in gerontology and strong involvement in community affairs.

I understand that the Health Department is recruiting applicants with an environmental health background, but no applicants have emerged at this time. It is an awkward situation to bypass a

## 12.A.

qualified applicant when no other applicants exist. The Board has the following options at this time;

- 1.) Defer all or some of the appointments/reappointments until additional applicant(s) with an environmental health background emerges. Current members of the Council continue to serve until they are reappointed or a successor is chosen.
- 2.) Appoint all of the applicants at this time and seek an environmental health expert the next time a vacancy occurs or during the next appointment cycle.
- 3.) Create an associate membership category on the Council to accommodate Dr. Roque Gordon's interest in serving. Pursuant to Article 3.1.5 of the Town By-Laws, associate members are "appointed and serve for a one year term and shall be nonvoting members of the committee".

cc: Dr. Swannie Jett, Director of Public Health

**An Act Establishing in the Town of Brookline a Health Department Under the Direction of a Director of Public Health.**

Originally enacted as Chapter 345 of the Acts of 1945 and subsequently amended by Chapter 191 of the Acts of 1955, Chapter 506 of the Acts of 1970, Chapter 453 of the Acts of 1973, and Chapter 9 of the Acts of 1981.

Section 1. There shall be in the town of Brookline a health department under a director of public health who shall be appointed by the selectmen and who shall have the powers, perform the duties and be subject to the obligations of boards of health in towns. The person so appointed shall be a citizen of the United States and shall have had not less than three years' full time experience in public health administration, or not less than one year's full time experience in public health administration and a graduate degree in public health from a recognized school of public health. Said director shall devote such time to the performance of his duties and the supervision of the employees of the department as shall be determined by the selectmen. He shall be appointed in June for the term of one year from the first day of July following and until the qualification of his successor. He may be removed by the selectmen for cause and the vacancy filled by appointment for the remainder of the unexpired term in the same manner as in the case of an original appointment. His salary or compensation shall be such as the selectmen may from time to time vote. The school committee may appoint and may revoke the appointment of the director of public health as the director of school health services. As director of school health services he shall, subject to the approval and under the continued supervision of the school committee, have the powers, perform the duties, and be subject to the obligations of school physicians under section fifty-three of chapter seventy-one of the General Laws. The director, subject to the approval of the selectmen, may make rules and regulations for the government of the health department and its officers, agents and employees. Subject to appropriation, he may also appoint and employ such officers, agents, assistants and employees and make such contracts as may be necessary to execute the health laws, rules and regulations. All officers, agents, assistants and employees appointed or employed, and all contracts made by the director pertaining in any manner to the school health services shall be subject to the approval and continued supervision of the school committee. The positions or offices of director of public health and director of school health services shall not be subject to the laws, rules and regulations pertaining to civil service.

Section 2. Upon the qualification of the director of public health first appointed hereunder the selectmen shall cease to serve as the board of health and their offices as members of the board of health shall thereupon terminate.

Section 3. The selectmen shall appoint an advisory council of public health whose duties shall be to act in an advisory capacity to the director of public health. Said council shall consist of six members. The members of said council first appointed hereunder shall be appointed as follows: - two members to serve for terms of one year each, two members to serve for terms of two years each, and two members to serve for terms of three years each, respectively, from the first day of May next following their appointment and until the qualification of their respective successors, and thereafter the selectmen shall annually before the first day of May appoint two members of such advisory council to serve for terms of three years each from said first day of May. Vacancies in such council shall be filled in like manner for the remainder of the unexpired terms. The members of such council shall elect annually in May a chairman from their own

## 12.A.

number. They shall service without compensation and may be removed by the selectmen for cause. They shall meet quarterly, and additional meetings may be held at any time at the call of the chairman or of the director, who shall be secretary of the advisory council.